TOWN BOARD MEETING
May 22, 2024
7:00 p.m.
Brighton Town Hall
2300 Elmwood Avenue

This meeting is conducted in-person with remote participation available via video conferencing at townofbrighton.org/499/Streaming-Video.

PRESENTATIONS/RECOGNITIONS:
- Emergency Services Week Proclamation
- Jewish American Heritage Month Proclamation
- National Police Week Proclamation
- 2023 Audited Financial Statements of the Town of Brighton

MEETING CALLED TO ORDER:

OPEN FORUM:

APPROVAL OF AGENDA

PUBLIC HEARINGS:

MATTER RE: Public hearing on the removal of a 48” Silver Maple at 94 Hampshire Drive; 39” Silver Maple at 36 Hollywood Ave., 50” Silver Maple at 241 Mayflower Dr., 50” Silver Maple at 53 Modelane; 34” Silver Maple at 24 Tarrytown Road, 38” Silver Maple at 30 Tarrytown Road, 36” Norway Maple at 83 Tarrytown Road (see Resolution #1 and letter dated April 9, 2024 from James Sprague, P.E., Commissioner of Public Works).

COMMUNICATIONS:

COMMITTEE REPORTS:
- Community Services Committee
- Finance and Administrative Services
- Public Safety Services
- Public Works Services

OLD BUSINESS:

NEW BUSINESS:

MATTER RE: Reading and approval of claims (Resolution #05-22-24-CLAIMS).

MATTER RE: Approve the issuance of bonds in an amount not to exceed $375,000 for the purchase of a plow truck for the Highway Department (see Resolution #2 and letter dated May 10, 2024 from Earl Johnson, Finance Director).

MATTER RE: Approve the issuance of bonds in an amount not to exceed $293,000 for the purchase of for a loader with plow package the Highway Department (see Resolution #3 and letter dated May 10, 2024 from Earl Johnson, Finance Director).
MATTER RE: Authorize the Supervisor to enter into an amended lease agreement with Crown Castle for a cell tower at the Highway Department facility (see Resolution #4 and letter dated May 3, 2024 from James Sprague, P.E., Commissioner of Public Works).

MATTER RE: Approve the appointment of Clara Sanguinetti to the Planning Board (see Resolution #6 and letter dated May 17, 2024 from William W. Moehle, Town Supervisor).

MATTER RE: Set a public hearing format the removal of a 34” DBH honey locust at 340 Dunrovin Lane (see Resolution #7 and letter dated May 15, 2024 from James Sprague, P.E., Commissioner of Public Works).

MATTER RE: Accept the incentive zoning/rezoning application by Home Leasing and Providence Housing for the development of affordable housing and recommend said application for consideration by the Planning Board (see Resolution #8 and letter dated May 17, 2024 from Rick DiStefano, Senior Planner).

MATTER RE: Authorize the Attorney to the Town to investigate a potential land swap and make recommendations on the proposal (see Resolution #9 and letter dated May 16, 2024 from James Sprague, P.E., Commissioner of Public Works).

MATTER RE: Amend the budget to transfer $6,000 from the Parks Department Corbett’s Glen maintenance supplies account to the Buckland Park maintenance equipment account and transfer $2,741.66 from the Frankel Park maintenance supplies account to the Buckland Park maintenance equipment account for a new mower (see Resolution #10 and letter dated May 20, 2024 from Matt Beeman, Superintendent of Parks).

MATTER RE: Authorize the Supervisor to enter into a Stormwater Maintenance Agreement for the Quicklees project at 1950-1966 Monroe Ave., and approve related documents (see Resolution #11 and letter dated May 20, 2024 from Ken Hurley, P.E., Town Engineer).

MATTER RE: Set a public hearing on a proposed Local Law known as “A Local Law to amend Chapter 113 of the Code of the Town of Brighton with respect to Demonstration and Special Event Permits” (see Resolution #12).

MATTER RE: Set a public hearing on a proposed Local Law known as “A Local Law for Flood Damage Prevention” (see Resolution #13 and letter dated May 20, 2024 from Ken Hurley, P.E., Town Engineer).

MATTERS OF THE SUPERVISOR:

MATTERS OF THE ATTORNEY TO THE TOWN:

MATTERS OF THE TOWN CLERK:

MATTERS OF THE BOARD:
MOTION TO GO INTO EXECUTIVE SESSION:
MATTER RE: Personnel and litigation.

MEETING ADJOURNED:

NEXT TOWN BOARD MEETING:
Wednesday, June 12, 2024 at 7 p.m.
OPEN FORUM
PUBLIC HEARINGS
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May, 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,
Councilmembers

WHEREAS, pursuant to the provisions of Chapter 175 of the Town Code, the Town Board previously received and filed a communication and report regarding the proposed tree removal and replacement of, among other trees, a 48” silver maple at 94 Hampshire Drive; a 39” DBH silver maple at 36 Hollywood Avenue; a 50” DBH silver maple at 241 Mayflower Drive; a 50” DBH silver maple at 53 Modelane; a 34” DBH silver maple at 24 Tarrytown Road; a 38” DBH silver maple at 30 Tarrytown Road; a 36” DBH norway maple at 83 Tarrytown Road; and

WHEREAS, the Town Board duly scheduled a public hearing to be held on May 22, 2024 at 7:00 p.m., to consider the proposed removal and replacement of said trees; and

WHEREAS, pursuant to the provisions of Section 175-8 of the Town Code, notice of such public hearing was sent by first class mail at least 20 days prior to the scheduled hearing addressed to the owners of each of the properties adjoining the above referenced tree and the owners directly across the Town highway from and the properties contiguous to the adjoining properties; and

WHEREAS, such public hearing was duly called and held on May 22, 2024 at 7:00 p.m., and all persons having an interest in the matter have had an opportunity to be heard.
NOW, THEREFORE, on motion of Councilperson ____________________, seconded by Councilperson ____________________,

BE IT RESOLVED, that all written comments provided to the Town at or before the Public Hearing held on May 22, 2024 regarding the proposed tree removal be received and filed as part of the record of the hearing; and further

BE IT RESOLVED, that pursuant to the provisions of Chapter 175 of the Town Code, and based on the record of the Public Hearing, the Town Board hereby authorizes the Commissioner of Public Works, and or his designee, to remove and replace the above referenced trees in accordance with the provisions of Chapter 175 including but not limited to the arboricultural specifications and standards of practice in the Town Forestry Plan.

Dated: May 22, 2024

William W. Moehle, Supervisor  Voting  ____
Christopher K. Werner, Councilmember  Voting  ____
Robin R. Wilt, Councilmember  Voting  ____
Christine E. Corrado, Councilmember  Voting  ____
Nathaniel V. Salzman, Councilmember  Voting  ____
23 April 2024

The Honorable Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York

Re: Tree removals

Honorable Members:

Seven (7) trees which qualify as significant town trees under Town of Brighton Code, Chapter 175, Trees, were referred to the Conservation Board for review via Department of Public Works letter dated 21 February 2024 (copy attached). Conservation Board support for the recommended removals and replacements was reported in their letter of 13 March 2024 (copy attached).

I recommend that the Town Board set a time and date for the required public hearings to address the removal of these significant trees.

Thank you for your attention to this matter.

Respectfully,

James P. Sprague, P.E.
Commissioner of Public Works

Attachments
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 94 Hampshire Drive

Location: Eastern side of street

Owner: public ☑ private ☐ unknown ☐ other ☐

Date: 11/31/24 Inspector: Kyle Sears (NY-6683A)

HAZARD RATING:

Failure ☑ Size ☑ Target ☑ Hazard Rating

Immediate action needed ☑ Needs further inspection ☐ Dead tree

TREE CHARACTERISTICS

Tree #: 3562 Species: Silver Maple

DBH: 48" # of trunks: 1 Height: 60' Spread: 40'

Form: ☑ generally symmetric ☐ minor asymmetry ☐ major asymmetry ☐ stump sprout ☐ stag-headed

Crown class: ☑ dominant ☑ co-dominant ☑ intermediate ☑ suppressed

Live crown ratio: 80% Age class: ☑ young ☐ semi-mature ☑ mature ☑ never-mature/senescent

Pruning history: ☑ crown cleaned ☑ excessively thinned ☑ topped ☑ crown raised ☑ polled ☑ crown reduced ☑ flush cuts ☑ cabled/grafted

Special Value: ☑ specimen ☑ heritage/historic ☑ wildlife ☑ unusual ☑ street tree ☑ screen ☑ shade ☑ indigeneous ☑ protected by gov. agency

TREE HEALTH

Foliation color: ☑ normal ☑ chlorotic ☑ necrotic Epicormices? ☑ N Growth obstructions:

Foliation density: ☑ normal ☑ sparse Leaf size: ☑ normal ☑ small ☑ stakes ☑ wire/lines ☑ signs ☑ cables

Annual shoot growth: ☑ excellent ☑ average ☑ poor Twig Dieback? ☑ N ☑ curb/pavement ☑ guards

Woundwood development: ☑ excellent ☑ average ☑ poor ☑ none ☑ other

Vigor class: ☑ excellent ☑ average ☑ fair ☑ poor

Major pests/diseases: Heart Rot Disease, Black Stroma, Numerous nesting holes

SITE CONDITIONS

Site Character: ☑ residence ☑ commercial ☑ industrial ☑ park ☑ open space ☑ natural ☑ woodland/forest

Landscape type: ☑ parkway ☑ raised bed ☑ container ☑ mound ☑ lawn ☑ shrub border ☑ wind break

Irrigation: ☑ none ☑ adequate ☑ inadequate ☑ excessive ☑ trunk wetted

Recent site disturbance? ☑ construction ☑ soil disturbance ☑ grade change ☑ line clearing ☑ site clearing

% dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? ☑ N

% dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%

% dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%

Soil problems: ☑ drainage ☑ shallow ☑ compacted ☑ drouthy ☑ saline ☑ alkaline ☑ acidic ☑ small volume ☑ disease center ☑ history of fall

Obstructions: ☑ lights ☑ signage ☑ line-of-sight ☑ view ☑ overhead lines ☑ underground utilities ☑ traffic ☑ adjacent veg.

Exposure to wind: ☑ single tree ☑ below canopy ☑ above canopy ☑ recently exposed ☑ windward, canopy edge ☑ area prone to windthrow

Prevailing wind direction: Westerly Occurrence of snow/ice storms ☑ never ☑ seldom ☑ regularly

TARGET

Use Under Tree: ☑ building ☑ parking ☑ traffic ☑ pedestrian ☑ recreation ☑ landscape ☑ hardscape ☑ small features ☑ utility lines

Can target be moved? ☑ N Can use be restricted? ☑ N

Occupancy: ☑ occasional use ☑ intermittent use ☑ frequent use ☑ constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
**TREE DEFECTS**

**ROOT DEFECTS:**

Suspect root rot: Y N  
Mushroom/cent/(bracket present: Y N  
ID: 

Exposed roots:  
- severe  
- moderate  
- low  
- Undetermined:  
  - severe  
  - moderate  
  - low  

Root pruned:  
- distance from trunk  
Root area affected:  
- %  
Buttress wounded: Y N  
When:  

Restricted root area:  
- severe  
- moderate  
- low  
Potential for root failure:  
- severe  
- moderate  
- low  

LEAN:  
- 15 deg. from vertical  
- Natural  
- Unnatural  
- Self-corrected  
- Soil heaving: Y N  

Decay in plane of lean: Y N  
Roots broken Y N  
Soil cracking: Y N  

Compounding factors:  
**Concrete in trunk, Girdling, Roots, Restricted Growth Area**  
Lean severity:  
- severe  
- moderate  
- low  

**CROWN DEFECTS:** Indicate presence of individual defects and rate their severity (s = severe, m = moderate, i = low)

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**HAZARD RATING**

Tree part most likely to fail:  
Inspection period:  
- annual  
- biannual  
- other  

Failure Potential + Size of Part + Target Rating = Hazard Rating

\[
\text{Hazard Rating} = \frac{1}{4} + \frac{4}{4} + \frac{1}{4} = 12
\]

**HAZARD ABATEMENT**

Prune:  
- remove defective part  
- reduce end weight  
- crown clean  
- thin  
- raise canopy  
- crown reduce  
- restructure  
- shape  

Cable/Brace:  
- None  
- Evaluate  

Remove tree: Y N  
Replace? Y N  
Move target Y N  
Other:  
Inspect further:  
- root crown  
- decay  
- aerial  
- monitor  

Effect on adjacent trees:  
- None  
- Evaluate  

Notification:  
- Owner  
- Manager  
- Governing agency  
Date: 11/31/24  

**COMMENTS**

Extremely High Risk Potential for failure in tree. Heartrot disease and Black Stroma evident, along with numerous nesting holes in every lead. Severe decay at root at the crease of the tree. Compound these facts by placing concrete in the trunk of the tree. Recommend immediate removal of tree.
HEART ROT DISEASE IN RECENTLY REMOVED LEAD

REMAINING LEAD FROM RECENT CUT
NESTING HOLE

SEVERE CAVITY IN LEAD W/ SIGNIFICANT DECAY & ROT
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 310 Hollywood Ave.

Map/Location: South side of street

Owner: public ☑ private unknown other

Date: 1/24/24 Inspector: Kyle Sears (NY-6083A)

Date of last inspection: ____________________________

HAZARD RATING:

Failure + Size + Target = Hazard Rating

☑ Immediate action needed
☐ Needs further inspection
☐ Dead tree

TREE CHARACTERISTICS

Tree #: 1004 Species: Silver Maple

DBH: 39" # of trunks: 1 Height: 60' Spread: 40'

Form: ☐ generally symmetric ☐ minor asymmetry ☐ major asymmetry ☐ stump sprout ☐ stag-headed

Crown class: ☐ dominant ☐ co-dominant ☐ intermediate ☐ suppressed

Live crown ratio: 90% Age class: ☐ young ☐ semi-mature ☐ mature ☐ over-mature/senescent

Pruning history: ☐ crown cleaned ☐ excessively thinned ☐ topped ☐ crown raised ☐ pollarded ☐ crown reduced ☐ flush cuts ☐ cabled/braced

Special Value: ☐ specimen ☐ heritage/historic ☐ wildlife ☐ unusual ☐ street tree ☐ screen ☐ shade ☐ indigenous ☐ protected by gov. agency

TREES HEALTH

Foliage color: ☑ normal ☐ chlorotic ☐ necrotic ☐ Epicormics? ☐ Y ☐ N Growth obstructions:

Foliage density: ☑ normal ☐ sparse Leaf size: ☐ normal ☐ small

Annual shoot growth: ☐ excellent ☐ average ☐ poor ☐ Twig Dieback? ☛ Y ☐ N

Woundwood development: ☐ excellent ☐ average ☐ poor ☐ none

Vigor class: ☐ excellent ☐ average ☐ poor

Major pests/diseases: Black Stump, Nesting holes, Heatspot disease, Insect & woodpecker damage

SITE CONDITIONS

Site Character: ☑ residence ☐ commercial ☐ industrial ☐ park ☐ open space ☐ natural ☐ woodland/forest

Landscape type: ☐ parkway ☐ raised bed ☐ container ☐ mound ☑ lawn ☐ shrub border ☐ wind break

Irrigation: ☐ none ☑ adequate ☐ inadequate ☐ excessive ☐ trunk wetted

Recent site disturbance? ☑ Y ☐ N ○ construction ☐ soil disturbance ☐ grade change ☐ line clearing ☐ site clearing

% dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? ☑ Y ☐ N

% dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%

% dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%

Soil problems: ☐ drainage ☐ shallow ☑ compacted ☐ droughty ☐ saline ☐ alkaline ☐ acidic ☐ small volume ☐ disease center ☐ history of fail

Obstructions: ☐ lights ☐ signage ☐ line-of-sight ☐ view ☐ overhead lines ☐ underground utilities ☐ traffic ☐ adjacent veg. ☐

Exposure to wind: ☑ single tree ☐ below canopy ☐ above canopy ☐ recently exposed ☐ windward, canopy edge ☐ area prone to windthrow

Prevailing wind direction: Westerly Occurrence of snow/ice storms ☐ never ☐ seldom ☑ regularly

TARGET

Use Under Tree: ☑ building ☐ parking ☑ traffic ☑ pedestrian ☐ recreation ☐ landscape ☐ hardscape ☐ small features ☐ utility lines

Can target be moved? ☑ Y ☐ N Can use be restricted? ☑ Y ☐ N

Occupancy: ☐ occasional use ☐ intermittent use ☐ frequent use ☑ constant use

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### TREE DEFECTS

**ROOT DEFECTS:**

- Suspect root rot: Y  N
- Mushroom/cent/bracket present: Y  N
- ID:
- Exposed roots:  □ severe □ moderate □ low □ Undetermined: □ severe □ moderate □ low
- Root pruned: ______ distance from trunk
- Root area affected: ______ %
- Buttress wounded: Y  N
- When: 
- Restricted root area:  □ severe □ moderate □ low
- Potential for root failure: □ severe □ moderate □ low
- LEAN: 15 deg. from vertical
- Natural □ unnatural □ self-corrected
- Soil heaving: Y  N
- Decay in plane of lean: Y  N
- Roots broken: Y  N
- Soil cracking: Y  N
- Compounding factors: Root Plating, Horizontal Cracks, Top Heavy
- Lean severity: □ severe □ moderate □ low

### CROWN DEFECTS:

Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

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### HAZARD RATING

Tree part most likely to fail: ____________________________

Inspection period: ______ annual ______ biannual ______ other ______

Failure Potential + Size of Part + Target Rating = Hazard Rating

4 + 4 + 4 = 12

### HAZARD ABATEMENT

- Prune: □ remove defective part □ reduce end weight □ crown clean □ thin □ raise canopy □ crown reduce □ restructure □ shape
- Cable/Brace: ____________________________
- Inspect further: □ root crown □ decay □ aerial □ monitor
- Remove tree: Y  N
- Replace? Y  N
- Move target: Y  N
- Effect on adjacent trees: □ none □ evaluate
- Notification: □ owner □ manager □ governing agency Date: 1/9/24

### COMMENTS

Horizontal Cracks in Trunk & Scaffolds, Black Streaks Present Indicating Heartrot Disease

Numerous nesting holes & cavities @ Root Collar, Trunk Union & Scaffolds. Throughout the tree is included bark, loose & cracking bark, & dead wood. Multiple pruning events and numerous branch failures have occurred. The tree is a High Risk Potential for Failure. Recommend Immediate Removal & Replace w/new tree.
ROOT PLATING ALONG ROAD

ROOT PLATING ALONG SIDEWALK

01/09/2024
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 241 Mayflower Drive
Map/Location: N.W. Corner of Mayflower Dr & Terrytown Rd
Owner: public √ private unknown other
Date: 11/17/24 Inspector: Kyle Sears (NY-6683A)
Date of last inspection:

HAZARD RATING:
4 + 4 + 4 = 12
Failure + Size + Target = Hazard Rating
√ Immediate action needed
____ Needs further inspection
____ Dead tree

TREE CHARACTERISTICS

Tree #: N/A Species: Silver Maple
DBH: 50' # of trunks: 1 Height: 70' Spread: 38'
Form: □ generally symmetric □ minor asymmetry □ major asymmetry □ stump sprout □ stag-headed
Crown class: □ dominant □ co-dominant □ intermediate □ suppressed
Live crown ratio: 90% □ Age class: □ young □ semi-mature □ mature □ rotted-mature/senescence
Pruning history: □ crown cleaned □ excessively thinned □ topped □ crown raised □ pollarded □ crown reduced □ flush cuts □ cabled/braced
□ none □ multiple pruning events □ Approx. dates:
Special Value: □ specimen □ heritage/historic □ wildlife □ unusual □ street tree □ screen □ shade □ indigenous □ protected by gov. agency

TREE HEALTH

Foliage color: □ normal □ chlorotic □ necrotic □ Epicormics? □ Y □ N
Growth obstructions:
Foliage density: □ normal □ sparse □ Leaf size: □ normal □ small
□ stakes □ wire/ties □ signs □ cables
Annual shoot growth: □ excellent □ average □ poor □ Twig Dieback? □ Y □ N
□ curb/pavement □ guards
Woundwood development: □ excellent □ average □ poor □ none
□ other
□ Vigor class: □ excellent □ average □ fair □ poor
Major pests/diseases: Heartrot Disease Numerous Nesting Holes

SITE CONDITIONS

Site Character: □ residence □ commercial □ industrial □ park □ open space □ natural □ woodland/forest
Landscape type: □ parkway □ raised bed □ container □ mound □ lawn □ shrub border □ wind break
Irrigation: □ none □ adequate □ inadequate □ excessive □ trunk wetted
Recent site disturbance? Y □ N □ construction □ soil disturbance □ grade change □ line clearing □ site clearing
% driveway paved: □ 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100% Pavement lifted? □ Y □ N
% driveway w/fill soil: □ 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100%
% driveway grade lowered: □ 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100%
Soil problems: □ drainage □ shallow □ compacted □ droughty □ saline □ alkaline □ acidic □ small volume □ disease center □ history of fall
□ clay □ expansive □ slope □ aspect:
Obstructions: □ lights □ signage □ line-of-sight □ view □ overhead lines □ underground utilities □ traffic □ adjacent veg.
□ Exposure to wind: □ single tree □ below canopy □ above canopy □ recently exposed □ windward, canopy edge □ area prone to windthrow
Prevailing wind direction: Westernly Occurrence of snow/ice storms □ never □ seldom □ regularly

TARGET

Use Under Tree: □ building □ parking □ traffic □ pedestrian □ recreation □ landscape □ hardscape □ small features □ utility lines
Can target be moved? □ Y □ N □ Can use be restricted? □ Y □ N
Occupancy: □ occasional use □ intermittent use □ frequent use □ constant use
□
The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
**TREE DEFECTS**

**ROOT DEFECTS:**

- Suspect root rot: Y [ ] N
- Mushroom/senk bracket present: Y [ ] N
- ID: ____________________________

- Exposed roots: [ ] severe [ ] moderate [ ] low [ ] Undetermined: [ ] severe [ ] moderate [ ] low
- Root pruned: _______ distance from trunk
- Root area affected: _______%
- Buttress wounded: Y [ ] N
- When: ________________________
- Restricted root area: [ ] severe [ ] moderate [ ] low
- Potential for root failure: [ ] severe [ ] moderate [ ] low

** lean: / [ ] deg. from vertical [ ] natural [ ] unnatural [ ] self-corrected
- Soil heaving: Y [ ] N
- Decay in plane of lean: Y [ ] N
- Roots broken: Y [ ] N
- Soil cracking: Y [ ] N

**Compounding factors:**
- [ ] Cavity [ ] decay [ ] trunk [ ] Top [ ] Heavy [ ] Lean severity: [ ] severe [ ] moderate [ ] low

**CROWN DEFECTS:** Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

<table>
<thead>
<tr>
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<th>SCAFFOLDS</th>
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**HAZARD RATING**

- Tree part most likely to fail: [ ] TRUNK
- Inspection period: _______ annual _______ biannual _______ other _______
- Failure Potential + Size of Part + Target Rating = Hazard Rating
- [ ] [ ] [ ] = 12

**HAZARD ABATEMENT**

- Prune: [ ] remove defective part [ ] reduce and weight [ ] crown clean [ ] thin [ ] raise canopy [ ] crown reduce [ ] restructure [ ] shape
- Cable/Brace: ____________________________
- Inspect further: [ ] root crown [ ] decay [ ] aerial [ ] monitor
- Remove tree: Y [ ] N
- Replace? Y [ ] N
- Move target: Y [ ] N
- Other: ____________________________
- Effect on adjacent trees: [ ] none [ ] evaluate
- Notification: [ ] owner [ ] manager [ ] governing agency
- Date: 11/17/24

**COMMENTS**

- Heart rot disease evident along with Cavity/Decay from the root collar up to the crotch of the tree. Numerous squirrels entering cavity @ root collar and emerging from the crotch of tree. Extreme Decay and splitting/cracking @ crotch of the tree along with the height of the tree being top heavy and nesting holes in both remaining limbs. Make this tree a high potential for failure. Recommend removal and replace with new.
CAVITY/NESTING HOLE (ACTIVE WITH SQUIRRELS)
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 53 Modelane

Map/Location: North side of street

Owner: public ☑ private ☐ unknown ☐ other ☐

Date: 2/5/24 Inspector: Kyle Sears (NY-4683A)

Date of last inspection:

HAZARD RATING:

Failure + Size + Target = Hazard Rating

Immediate action needed ☑ Needs further inspection ☐ Dead tree

TREE CHARACTERISTICS

Tree #: 3262 Species: Silver Maple

DBH: 50" # of trunks: 1 Height: 45' Spread: 50'

Form: ☐ generally symmetric ☑ minor asymmetry ☐ major asymmetry ☐ stump sprout ☐ stag-headed

Crown class: ☐ dominant ☑ co-dominant ☐ intermediate ☐ suppressed

Live crown ratio: 90% Age class: ☐ young ☑ semi-mature ☐ mature ☑ over-mature/sonescent

Pruning history: ☐ crown cleaned ☑ excessively thinned ☐ topped ☐ crown raised ☐ pruned ☐ crown reduced ☐ flush cuts ☐ cabled/braced

Special Value: ☐ specimen ☐ heritage/historic ☐ wildlife ☐ unusual ☑ street tree ☐ screen ☐ shade ☐ indigenous ☐ protected by gov. agency

TREE HEALTH

Foliation color: ☐ normal ☐ chlorotic ☐ nectotic Epicormics? Y N

Growth obstructions:

Foliation density: ☐ normal ☐ sparse Leaf size: ☐ normal ☑ small

Annual shoot growth: ☐ excellent ☐ average ☑ poor Twig Dieback? Y N

Woundwood development: ☐ excellent ☐ average ☑ poor ☐ none

Vigor class: ☐ excellent ☐ average ☐ fair ☑ poor

Major pests/diseases: Heartrot Disease, Blackstone, Ants, Nesting holes

SITE CONDITIONS

Site Character: ☐ residence ☐ commercial ☐ industrial ☐ park ☐ open space ☐ natural ☐ woodland/forest

Landscape type: ☐ parkway ☐ raised bed ☐ container ☐ mound ☑ lawn ☐ shrub border ☐ wind break

Irrigation: ☐ none ☑ adequate ☐ inadequate ☐ excessive ☐ trunk wetted

Recent site disturbance? Y ☑ construction ☐ soil disturbance ☐ grade change ☐ line clearing ☐ site clearing

% driveway paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? Y N

% driveway w/fill soil: 0% 10-25% 25-50% 50-75% 75-100%

% driveway grade lowered: 0% 10-25% 25-50% 50-75% 75-100%

Soil problems: ☐ drainage ☐ shallow ☐ compacted ☐ droughty ☐ saline ☐ alkaline ☐ acidic ☐ small volume ☐ disease center ☐ history of fail

Clay ☐ expansive ☐ slope aspect:

Obstructions: ☐ lights ☐ signage ☐ line-of-sight ☐ view ☐ overhead lines ☐ underground utilities ☐ traffic ☐ adjacent veg.

Exposure to wind: ☐ single tree ☐ below canopy ☐ above canopy ☐ recently exposed ☐ windward, canopy edge ☐ area prone to windthrow

Prevaling wind direction: Westerly Occurrence of snow/ice storms ☐ never ☐ seldom ☑ regularly

TARGET

Use Under Tree: ☐ building ☑ parking ☩ traffic ☐ pedestrian ☐ recreation ☐ landscape ☐ hardscape ☐ small features ☐ utility lines

Can target be moved? Y ☑ Can use be restricted? Y N

Occupancy: ☐ occasional use ☐ intermittent use ☐ frequent use ☑ constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
# TREE DEFECTS

## ROOT DEFECTS:

- **Suspect root rot:** Y N  
- **Mushroom/enc/bracket present:** Y N  
- **ID:** __________

- **Exposed roots:** __D__ severe  
- **moderate**  
- **low**  
- **Undermined:** __D__ severe  
- **moderate**  
- **low**

- **Root pruned:** __________ distance from trunk  
- **Root area affected:** __________%  
- **Buttress wounded:** Y N  
- **When:** __________

- **Restricted root area:** __D__ severe  
- **moderate**  
- **low**  
- **Potential for root failure:** __D__ severe  
- **moderate**  
- **low**

- **LEAN:** __________ deg. from vertical  
- **natural**  
- **unnatural**  
- **self-corrected**  
- **Soil heaving:** Y N

- **Decay in plane of lean:** Y N  
- **Roots broken:** Y N  
- **Soil cracking:** Y N

- **Compounding factors:** **Unbalanced/Top Heavy**  
- **Leads/Gridding**  
- **Rocks**  
- **Lean severity:** __________

## CROWN DEFECTS:

Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

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</table>

## HAZARD RATING

- **Tree part most likely to fail:** **TRUNK**  
- **Inspection period:** ________ annual ________ biannual ________ other ________  
- **Failure Potential + Size of Part + Target Rating = Hazard Rating**  
  
  __________ + __________ + __________ = __________  

## HAZARD ABATEMENT

- **Prune:**  
  - [ ] remove defective part  
  - [ ] reduce end weight  
  - [ ] crown clean  
  - [ ] thin  
  - [ ] raise canopy  
  - [ ] crown reduce  
  - [ ] restructure  
  - [ ] shape  

- **Cable/Brace:** ____________  
  - Inspect further:  
    - [ ] root crown  
    - [ ] decay  
    - [ ] aerial  
    - [ ] monitor  

- **Remove tree:** Y N  
  - [ ] Replace? Y N  
  - Move target: Y N  
  - Other: ____________

- **Effect on adjacent trees:**  
  - [ ] none  
  - [ ] evaluate  

- **Notification:**  
  - [ ] owner  
  - [ ] manager  
  - [ ] governing agency  
  - Date: ____________

## COMMENTS

The tree is over-mature with signs of Heartrot disease and Black Stump evident. At the crotch of the tree there are multiple lead attachments with significant decay and rot along with nesting holes. The leads are unbalanced and top heavy (D) and not along with nesting holes. The leads are Girdling and severely exposed with multiple spots of buttress/root damage. There is evidence of ants/borers in the root crown and trunk of tree. Recommend immediate removal & replace w/ new tree. High potential for failure.
53
49 Modelane

Rochester, New York
Google Street View
Apr 2012 See more dates

Image capture: Apr 2012 © 2024 Google

https://www.google.com/maps/@43.1156052,-77.5572099,3a,75y,302.78h,101.04i/data=f3m61e1f3m41!sn9LZ2OV1tg646B5WO1FKg!2e0f7i13312I8...
DAMAGED ROOTS

30" +/- DEEP CAVITY W/ SEVERE DECAY AND Rot

02/05/2024
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

**TREE HAZARD EVALUATION FORM** 2nd Edition

**Site/Address:** 24 Tarrytown Road

**Map/Location:** Northeanly side of Street

Owner: public [✓] private [ ] unknown [ ] other [ ]

**Date:** 11/16/24

Inspector: Kyle Sears (NY-6673A)

Date of last inspection: 

<table>
<thead>
<tr>
<th>HAZARD RATING:</th>
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<tr>
<td>fallure + size + target = hazard</td>
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<tr>
<td>Potential of part rating</td>
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<td>rating</td>
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<tr>
<td>Immediate action needed</td>
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<tr>
<td>needs further inspection</td>
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<tr>
<td>dead tree</td>
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</table>

**TREE CHARACTERISTICS**

Tree #: 775 Species: Silver Maple

DBH: 34" # of trunks: 1 Height: 65' Spread: 30'

Form: [ ] generally symmetric [ ] minor asymmetry [ ] major asymmetry [ ] stump sprout [ ] stag-headed

Crown class: [✓] dominant [ ] co-dominant [ ] intermediate [ ] suppressed

Live crown ratio: 90% Age class: [✓] young [ ] semi-mature [✓] mature [ ] over-mature/senescent

Pruning history: [ ] crown cleaned [ ] excessively thinned [ ] topped [ ] crown raised [ ] pollarded [ ] crown reduced [ ] flush cuts [ ] cabled/braced

[ ] none [✓] multiple pruning events Approx. dates: 

Special Value: [ ] specimen [ ] heritage/historic [ ] wildlife [ ] unusual [✓] street tree [ ] screen [ ] shade [ ] indigenous [ ] protected by gov. agency

**TREE HEALTH**

Folliage color: [ ] normal [ ] chlorotic [ ] neptic [ ] Epicormics? Y [✓] N

Growth obstructions:

Folliage density: [ ] normal [ ] sparse Leaf size: [ ] normal [✓] small

Annual shoot growth: [✓] excellent [ ] average [ ] poor Twig Dieback Y [✓] N

Woundwood development: [ ] excellent [ ] average [ ] poor [ ] none

Vigor class: [✓] excellent [ ] average [ ] fair [ ] poor

Major pests/diseases: Insect & Woodpecker Damage in trunk Nesting holes in leads

**SITE CONDITIONS**

Site Character: [✓] residence [ ] commercial [ ] industrial [ ] park [ ] open space [ ] natural [ ] woodland/forest

Landscape type: [ ] parkway [ ] raised bed [ ] container [ ] mound [✓] lawn [ ] shrub border [ ] wind break

Irrigation: [ ] none [✓] adequate [ ] inadequate [ ] excessive [ ] trunk wetted

Recent site disturbance? Y [✓] N [ ] construction [ ] soil disturbance [ ] grade change [ ] line clearing [ ] site clearing

% dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? Y [ ] N

% dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%

% dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%

Soil problems: [ ] drainage [ ] shallow [ ] compacted [ ] drouthy [ ] saline [ ] alkaline [ ] acidic [ ] small volume [ ] disease center [ ] history of fail

Obstructions: [ ] lights [ ] signage [ ] line-of-sight [ ] view [ ] overhead lines [ ] underground utilities [ ] traffic [ ] adjacent veg. [ ]

Exposure to wind: [ ] single tree [ ] below canopy [ ] above canopy [ ] recently exposed [ ] windward, canopy edge [ ] area prone to windthrow

Prevailing wind direction: Westerly Occurrence of snow/ice storms [ ] never [ ] seldom [✓] regularly

**TARGET**

Use Under Tree: [✓] building [ ] parking [ ] traffic [✓] pedestrian [ ] recreation [ ] landscape [ ] hardscape [ ] small features [ ] utility lines

Can target be moved? Y [✓] N Can use be restricted? Y [ ] N

Occupancy: [ ] occasional use [ ] intermittent use [ ] frequent use [✓] constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
### TREE DEFECTS

#### ROOT DEFECTS:

Suspect root rot: \( Y \) 
Mushroom/cork/bracket present: \( Y \) 
ID: ________________________________

Exposed roots:  
- \( Y \) severe  
- \( \checkmark \) moderate  
- \( \square \) low  
Undetermined roots:  
- \( \square \) severe  
- \( \square \) moderate  
- \( \checkmark \) low  

Root pruned: _______ distance from trunk  
Root area affected: _______%  
Buttress wounded: \( Y \) 
When: ________________________________

Restricted root area:  
- \( \square \) severe  
- \( \checkmark \) moderate  
- \( \square \) low  
Potential for root failure:  
- \( \square \) severe  
- \( \square \) moderate  
- \( \checkmark \) low  

LEAN: \( 22 \) deg. from vertical  
- \( \checkmark \) natural  
- \( \square \) unnatural  
- \( \square \) self-corrected  
Soil heaving: \( Y \)

Decay in plane of lean: \( Y \)  
Roots broken: \( Y \)  
Soil cracking: \( Y \)

Compounding factors:  
- \( \checkmark \) severe  
- \( \square \) moderate  
- \( \square \) low  

#### CROWN DEFECTS: Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

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<td>Borers/termites/ants</td>
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<td>Canker/galls/burrs</td>
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<tr>
<td>Previous failure</td>
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</table>

### HAZARD RATING

Tree part most likely to fail:  
- TRUNK

Inspection period:  
- \( \square \) annual  
- \( \square \) biannual  
- \( \checkmark \) other  

Failure Potential + Size of Part + Target Rating = Hazard Rating  
\( 4 + \frac{4}{4} = 12 \)

### HAZARD ABATEMENT

Prune:  
- \( \square \) remove defective part  
- \( \checkmark \) reduce end weight  
- \( \checkmark \) crown clean  
- \( \square \) thin  
- \( \square \) raise canopy  
- \( \square \) crown reduce  
- \( \checkmark \) restructure  
- \( \square \) shape

Cable/Brace:  
- \( \checkmark \) none  
- \( \square \) evaluate

Remove tree: \( Y \) 
Replace? \( Y \) 
Move target: \( Y \) 
Other: ________________________________

Inspect further:  
- \( \square \) root crown  
- \( \square \) decay  
- \( \square \) aerial  
- \( \square \) monitor

Effect on adjacent trees:  
- \( \checkmark \) none  
- \( \square \) evaluate

Notification:  
- \( \square \) owner  
- \( \square \) manager  
- \( \square \) governing agency  
Date: 1/16/24

### COMMENTS

Nesting holes present in leads. Trunk has insect/woodpecker damage. Tree has severe lean/top heavy along with splitting and cracking at crotch of tree. A tree is considered dangerous when it is leaning 15 degrees or more. Recommended immediate removal and replace with tree that supports the tree lawn area. High risk potential for failure of this tree.
LOOKING NORTHERLY

SEVERE LEAN / TOP HEAVY / UNBALANCED
LOOKING SOUTHERLY
SEVERE LEAN / TOP HEAVY / UNBALANCED
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 30 Tarrytown Road

Map/Location: Northern side of street

Owner: public □ private □ unknown □ other □

Date: 4/10/24 Inspector: Kyle Sears (NY-4693)

Date of last inspection:

**TREE CHARACTERISTICS**

Tree #: 7760 Species: Silver Maple

DBH: 38" # of trunks: 1 Height: 165' Spread: 36'

Form: □ generally symmetric □ minor asymmetry □ major asymmetry □ stump sprout □ stag-headed

Crown class: □ dominant □ co-dominant □ intermediate □ suppressed

Live crown ratio: 90% □ Age class: □ young □ semi-mature □ mature □ over-mature/semi-mature

Pruning history: □ crown cleaned □ excessively thinned □ topped □ crown raised □ polluted □ crown reduced □ flush cuts □ cabled/braced □ none □ multiple pruning events Approx. dates:

Special Value: □ specimen □ heritage/historic □ wildlife □ unusual □ street tree □ screen □ shade □ indigenous □ protected by gov. agency

**TREE HEALTH**

Folliage color: □ normal □ chlorotic □ necrotic □ Epicormies? □ Y □ N □ Growth obstructions:

Folliage density: □ normal □ sparse □ Leaf size: □ normal □ small □ large □瘦 □ Twigs □ Twigs □ Twig □ Dieback? □ Y □ N □ curb/pavement □ guards □ other

Wound development: □ excellent □ average □ poor □ none □ other

Vigor class: □ excellent □ average □ fair □ poor

Major pests/diseases: Numerous Nesting Holes, Heartrot (Ceratalum Decay)

**SITE CONDITIONS**

Site Character: □ residence □ commercial □ industrial □ park □ open space □ natural □ woodland/forest

Landscape type: □ parkway □ raised bed □ container □ mound □ lawn □ shrub border □ wind break

Irrigation: □ none □ inadequate □ inadequate □ excessive □ trunk wetted

Recent site disturbance? □ Y □ N □ construction □ soil disturbance □ grade change □ line clearing □ site clearing

% Ips pine: 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100% □ Pavement lifted? □ Y □ N

% Ips pine w/fill soil: 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100%

% Ips pine grade lowered: 0% □ 10-25% □ 25-50% □ 50-75% □ 75-100%

Soil problems: □ drainage □ shallow □ compacted □ droughty □ saline □ alkaline □ acidic □ small volume □ disease center □ history of fail □ clay □ expansive □ slope □ aspect:

Obstructions: □ lights □ signage □ line-of-sight □ view □ overhead lines □ underground utilities □ traffic □ adjacent veg. □

Exposure to wind: □ single tree □ below canopy □ above canopy □ recently exposed □ windward, canopy edge □ area prone to wind throw

Prevailing wind direction: W/N W/E S/W E/S S/E S/N N/E N/S N/W

Occurrence of snow/ice storms: □ never □ seldom □ regularly

**TARGET**

Use Under Tree: □ building □ parking □ traffic □ pedestrian □ recreation □ landscape □ hardscape □ small features □ utility lines

Can target be moved? □ Y □ N □ Can use be restricted? □ Y □ N

Occupancy: □ occasional use □ intermittent use □ frequent use □ constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
**TREE DEFECTS**

**ROOT DEFECTS:**
- Suspect root rot: Y ☑️ Mushroom/root/bracket present: Y N ID: _______________________
- Exposed roots: ☐ severe ☑️ moderate ☐ low Undetermined: ☐ severe ☐ moderate ☐ low
- Root pruned: _____ distance from trunk Root area affected: _____% Buttress wounded: Y N When: ________________
- Restricted root area: ☐ severe ☐ moderate ☐ low Potential for root failure: ☐ severe ☑️ moderate ☐ low
- LEAN: 15 deg. from vertical ☑️ natural ☐ unnatural ☐ self-corrected Soil heaving: Y ☑️
- Decay in place of lean: Y N Roots broken Y ☑️ Soil cracking: Y ☑️
- Compounding factors: Horizontal cracking with root □ weight
- Lean severity: ☐ severe ☑️ moderate ☐ low

**CROWN DEFECTS:** Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

<table>
<thead>
<tr>
<th>DEFECT</th>
<th>ROOT CROWN</th>
<th>TRUNK</th>
<th>SCAFFOLDS</th>
<th>BRANCHES</th>
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<tbody>
<tr>
<td>Poor taper</td>
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<tr>
<td>Bow, sweep</td>
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<tr>
<td>Codominants/forks</td>
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<td>Multiple attachments</td>
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<td>Included bark</td>
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<td>Cracks/splits</td>
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<td>Hangers</td>
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<tr>
<td>Girdling</td>
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<td>Wounds/seam</td>
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</tbody>
</table>

**HAZARD RATING**

Tree part most likely to fail: TRUNK

Inspection period: __________ annual __________ biannual __________ other __________

Failure Potential + Size of Part + Target Rating = Hazard Rating

4 + 4 + 4 = 12

**HAZARD ABATEMENT**

Prune: ☐ remove defective part ☐ reduce end weight ☐ crown clean ☐ thin ☐ raise canopy ☐ crown reduce ☐ restructure ☐ shape

Cable/Brace: ____________________ Inspect further: ☐ root crown ☐ decay ☐ aerial ☐ monitor

Remove tree: Y ☑️ N Replace? Y ☑️ N Move target: Y ☑️ N Other: ____________________

Effect on adjacent trees: ☑️ none ☐ evaluate

Notification: ☑️ owner ☐ manager ☐ governing agency Date: 1/16/24

**COMMENTS**

Numerous nesting holes (active w/ squirrels). Heartrot Disease evident with excessive internal decay. Stress cracking in trunk & scaffolds present along with canker and decay at major stress points on the tree make the tree a high potential for failure. Recommend immediate removal and replacement w/new tree adequate for tree lawn area.
Site/Address: 83 Tarrytown Road

Map/Location: Southern side of street

Owner: public  private  unknown  other

Date: 11/17/24  Inspector: Kyle Sears (NY-6683A)

Date of last inspection:

**TREE CHARACTERISTICS**

Tree #: 5293  Species: Norway Maple

DBH: 36"  # of trunks: 1  Height: 50'  Spread: 36'

Form:  
- generally symmetrical  
- minor asymmetry  
- major asymmetry  
- stump sprout  
- stag-headed

Crown class:  
- dominant  
- co-dominant  
- intermediate  
- suppressed

Live crown ratio: 80%  
- Age class:  
  - young  
  - semi-mature  
  - mature  
  - over-mature/senescent

Pruning history:  
- crown cleaned  
- excessively thinned  
- topped  
- crown raised  
- pollarded  
- crown reduced  
- flush cuts  
- cabled/braced  
- none  
- multiple pruning events  
ApproxDates: 

Special Value:  
- specimen  
- heritage/historic  
- wildlife  
- unusual  
- street tree  
- screen  
- shade  
- indigenous  
- protected by gov. agency

**TREE HEALTH**

Follicle color:  
- normal  
- chlorotic  
- necrotic  
- Epicormics?  Y N

Growth obstructions:  
- stakes  
- wire/lines  
- signs  
- cables

Follicle density:  
- normal  
- sparse  
- Leaf size:  
- normal  
- small

Annual shoot growth:  
- excellent  
- average  
- poor  
- Twig Dieback?  Y N

Woundwood development:  
- excellent  
- average  
- poor  
- none

Vigor class:  
- excellent  
- average  
- fair  
- poor

Major pests/diseases: Heart rot  Disease  Insect  Woodpecker damage  Nesting holes

**SITE CONDITIONS**

Site Character:  
- residence  
- commercial  
- industrial  
- park  
- open space  
- natural  
- woodland/forest

Landscape type:  
- parkway  
- raised bed  
- container  
- mound  
- lawn  
- shrub border  
- wind break

Irrigation:  
- none  
- inadequate  
- adequate  
- excessive  
- trunk wetted

Recent site disturbance?  Y N  
- construction  
- soil disturbance  
- grade change  
- line clearing  
- site clearing

% dripline paved:  
- 0%  
- 10-25%  
- 25-50%  
- 50-75%  
- 75-100%

Pavement lifted? Y N

% dripline w/ fill soil:  
- 0%  
- 10-25%  
- 25-50%  
- 50-75%  
- 75-100%

% dripline grade lowered:  
- 0%  
- 10-25%  
- 25-50%  
- 50-75%  
- 75-100%

Soil problems:  
- drainage  
- shallow  
- compacted  
- droughly  
- saline  
- alkaline  
- acidic  
- small volume  
- disease center  
- history of fail

- dry  
- expansive  
- slope  
- aspect: 

Obstructions:  
- lights  
- signage  
- line-of-sight  
- view  
- overhead lines  
- underground utilities  
- traffic  
- adjacent veg.

Exposure to wind:  
- single tree  
- below canopy  
- above canopy  
- recently exposed  
- windward, canopy edge  
- area prone to windthrow

Prevailing wind direction: westerly

Occurrence of snow/ice storms:  
- never  
- seldom  
- regularly

**TARGET**

Use Under Tree:  
- building  
- parking  
- traffic  
- pedestrian  
- recreation  
- landscape  
- hardscape  
- small features  
- utility lines

Can target be moved? Y N  
Can use be restricted? Y N

Occupancy:  
- occasional use  
- intermittent use  
- frequent use  
- constant use

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### TREE DEFECTS

**ROOT DEFECTS:**
- Suspect root rot: Y [ ]
- Mushroom/cent/bracket present: Y [ ] N [ ]
- Exposed roots: Y [ ] severe [ ] moderate [ ] low [ ]
- Undetermined: Y [ ] severe [ ] moderate [ ] low [ ]
- Root pruned: distance from trunk [ ]
- Root area affected: [ ]
- Bittress wounded: Y [ ] N [ ]
- When: [ ]
- Restricted root area: Y [ ] severe [ ] moderate [ ] low [ ]
- Potential for root failure: Y [ ] severe [ ] moderate [ ] low [ ]
- Lean: 15 [ ] deg. from vertical [ ]
- Natural: Y [ ]
- Unnatural: Y [ ]
- Self-corrected: Y [ ]
- Soil heaving: Y [ ]
- Decay in plane of lean: Y [ ]
- Roots broken: Y [ ]
- Soil cracking: Y [ ]
- Compounding factors: Girdling, Roots, Mechanical Damage, Top Heavy
- Lean severity: Y [ ]

**CROWN DEFECTS:** Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

<table>
<thead>
<tr>
<th>DEFECT</th>
<th>ROOT</th>
<th>CROWN</th>
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</tbody>
</table>

**HAZARD RATING**
- Tree part most likely to fall: TRUNK
- Failure potential: 1 - low; 2 - medium; 3 - high; 4 - severe
- Size of part: 1 - <8" (15 cm); 2 - 8-18" (15-45 cm); 3 - 18-30" (45-75 cm); 4 - >30" (75 cm)
- Target rating: 1 - occasional use; 2 - intermittent use; 3 - frequent use; 4 - constant use
- Failure Potential + Size of Part + Target Rating = Hazard Rating
- 4 + 4 + 4 = 12

**HAZARD ABATEMENT**

- Prune: [ ] remove defective part [ ] reduce end weight [ ] crown clean [ ] thin [ ] raise canopy [ ] crown reduce [ ] restructure [ ] shape [ ]
- Cable/Brace: [ ]
- Remove tree: Y [ ]
- Replace: Y [ ]
- Move target: Y [ ]
- Inspect further: [ ] root crown [ ] decay [ ] aerial [ ] monitor [ ]
- Effect on adjacent trees: [ ] none [ ] evaluate [ ]
- Notification: [ ] owner [ ] manager [ ] governing agency [ ] Date: 1/17/24

**COMMENTS**
- Severe splitting, cracking, decay and root not evident in trunk and scaffolds of tree.
- A road side lead has significant mechanical damage from larger vehicles over the years.
- Restricted root area, and girdling roots and nesting holes along with the splitting and cracking through the tree make this tree a High Risk Potential for failure. Recommend immediate removal and replacement with new tree. Tree is severely declining.
SEVERE WOUND/SEAM WITH DECAY / ROT
NESTING HOLE W/ DECAY/ROT

SPLITTING & CRACKING
COMMUNICATIONS
NEW BUSINESS
CLAIMS FOR APPROVAL AT TOWN BOARD MEETING

May 22, 2024

THAT THE CLAIMS NUMBERED 2160 THROUGH 2404 AS SUMMARIZED BELOW HAVING BEEN APPROVED BY THE RESPECTIVE DEPARTMENT HEADS AND AUDITED BY THE CHAIR OF THE FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE ARE HEREBY APPROVED FOR PAYMENT.

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>A - GENERAL</td>
<td>546,969.61</td>
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<tr>
<td>CM - COMMUNITY FUND</td>
<td>1,312.50</td>
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<td>D - HIGHWAY</td>
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<td>H - CAPITAL</td>
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<td>L - LIBRARY</td>
<td>43,363.59</td>
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<td>SD - DRAINAGE DISTRICT</td>
<td>269.69</td>
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<tr>
<td>SS - SEWER DISTRICT</td>
<td>19,761.32</td>
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<td><strong>TOTAL:</strong></td>
<td><strong>$833,840.55</strong></td>
</tr>
</tbody>
</table>

UPON ROLL CALL MOTION CARRIED

APPROVED BY:

SUPERVISOR
William W. Moehle

COUNCIL MEMBER
Nathaniel Salzman

COUNCIL MEMBER
Christopher Werner

COUNCIL MEMBER
Robin Wilt

COUNCIL MEMBER
Christine Corrado

TO THE SUPERVISOR:

I CERTIFY THAT THE VOUCHERS LISTED ABOVE WERE AUDITED BY THE CHAIR OF THE FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE AND APPROVED BY THE TOWN BOARD ON THE ABOVE DATE AND ALLOWED IN THE AMOUNTS SHOWN. YOU ARE HEREBY AUTHORIZED AND DIRECTED TO PAY TO EACH OF THE CLAIMANTS THE AMOUNT OPPOSITE HIS NAME.

May 22, 2024

DATE

TOWN CLERK
Daniel Aman
<table>
<thead>
<tr>
<th>CLAIM #</th>
<th>VENDOR NUMBER</th>
<th>VENDOR NAME</th>
<th>INVOICE NUMBER</th>
<th>INVOICE DESCRIPTION</th>
<th>INVOICE DATE</th>
<th>INVOICE AMOUNT</th>
<th>INVOICE STATUS</th>
<th>PAYMENT DATE</th>
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<tbody>
<tr>
<td>2160</td>
<td>10527</td>
<td>ADVANCED PROPERTY CONTRACTORS, LLC</td>
<td>42524</td>
<td>HARDWOOD GARDEN MULCH</td>
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<td>2161</td>
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<td>$177.22</td>
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**BAKER & TAYLOR, INC. Total** $11,390.47

| 2210    | 59            | BAKER & TAYLOR, INC. | 2038266237 | 2024 Standing Order - ADULT Books | 5/2/2024 | $379.19 | Open |            |

**BAKER & TAYLOR, INC. Total** $11,390.47

| 2211    | 4881          | MATTHEW L. BASHORE | 2024-00000209 | REIMBURSEMENT - MENDON PONDS PARK BOOK | 4/20/2024 | $24.99 | Open |            |

**MATTHEW L. BASHORE Total** $24.99

| 2212    | 10647         | BJA 1675 LLC dba BOB JOHNSON FORD | G2578 | 2023 Police Interceptor Utility Ford AWD SUVs - NYS bid #12443 | 5/8/2024 | $46,000.00 | Open |            |

**BJA 1675 LLC dba BOB JOHNSON FORD Total** $46,000.00

| 2213    | 10647         | BJA 1675 LLC dba BOB JOHNSON FORD | G2579 | 2023 Police Interceptor Utility Ford AWD SUVs - NYS bid #12443 | 5/8/2024 | $46,100.00 | Open |            |

**BJA 1675 LLC dba BOB JOHNSON FORD Total** $92,100.00

| 2214    | 70            | BLAIR SUPPLY CORPORATION | 1265109 | PIPE, FERNCOS, FITTINGS | 4/15/2024 | $2,901.70 | Open |            |

**BLAIR SUPPLY CORPORATION Total** $3,010.20

| 2215    | 70            | BLAIR SUPPLY CORPORATION | 1265109-1 | PIPE, FERNCOS, FITTINGS | 4/25/2024 | $130.20 | Open |            |

| 2216    | 70            | BLAIR SUPPLY CORPORATION | CM1265109 | PIPE, FERNCOS, FITTINGS - CREDIT FOR BILLING ERROR | 5/13/2024 | -$21.70 | Open |            |

**BLAIR SUPPLY CORPORATION Total** $3,010.20

| 2217    | 9749          | BOLANOS LOWE, PLLC | 1234 | LEGAL SERVICES - LABOR RELATIONS - APRIL 2024 | 5/6/2024 | $4,252.50 | Open |            |

**BOLANOS LOWE, PLLC Total** $4,252.50

| 2218    | 10292         | BRIDGE TOWER OPCO, LLC | 745693374 | LEGAL NOTICE - TENATIVE ASSESSMENT ROLL - 4/29 | 4/29/2024 | $78.12 | Open |            |

| 2219    | 10292         | BRIDGE TOWER OPCO, LLC | 745696506 | LEGAL NOTICE - PB 5/15/24 | 5/9/2024 | $92.53 | Open |            |

**BRIDGE TOWER OPCO, LLC Total** $170.65

| 2220    | 1736          | BRIGHTON MOWER SERVICE, INC. | 113831 | BLADE FOR MOWER | 5/15/2024 | $113.70 | Open |            |

**BRIGHTON MOWER SERVICE, INC. Total** $113.70

| 2221    | 5463          | BRITTON, MICHAEL | 68862289 | REFUND - CARMEN CLARK LODGE | 5/6/2024 | $175.00 | Open |            |

**BRITTON, MICHAEL Total** $175.00

| 2222    | 10668         | C. BASIL FORD, INC. | 128541 | 2024 FORD F250 4x4 | 4/29/2024 | $53,146.06 | Open |            |

**C. BASIL FORD, INC. Total** $53,146.06

| 2223    | 101           | CASTLE HI-TECH CHEMICAL | 126626 | AUTOMOTIVE CHEMICALS | 5/8/2024 | $705.40 | Open |            |

**CASTLE HI-TECH CHEMICAL Total** $705.40

| 2224    | 8020          | CIGNA LIFE INSURANCE COMPANY OF NEW YORK | 60507_050124 | DISABILITY INSURANCE FOR MAY 2024 | 5/1/2024 | $3,415.61 | Open |            |

**CIGNA LIFE INSURANCE COMPANY OF NEW YORK Total** $3,415.61

| 2225    | 9456          | CINTAS CORPORATION #2 | 5209074346 | FIRST AID SUPPLIES | 4/30/2024 | $93.14 | Open |            |

| 2226    | 9456          | CINTAS CORPORATION #2 | 4191790661 | FLOOR MAT RENTAL - OPS CENTER | 5/7/2024 | $68.33 | Open |            |

**CINTAS CORPORATION #2 Total** $161.47

| 2227    | 2468          | PATRICK W. CLUNE | 2024-00000200 | CLUNE, P. CASE ID: TBRIT-001-97 | 5/3/2024 | $800.00 | Paid by EFT #322 5/9/2024 |            |

**PATRICK W. CLUNE Total** $800.00

| 2228    | 4387          | COLLIERS ENGINEERING & DESIGN | 934250 | PROFESSIONAL SERVICES - MULTIVERSITY PLAN | 4/1/2024 | $6,469.12 | Open |            |

| 2229    | 4387          | COLLIERS ENGINEERING & DESIGN | 943981 | PROFESSIONAL SERVICES - MULTIVERSITY PLAN | 5/4/2024 | $4,593.75 | Open |            |

**COLLIERS ENGINEERING & DESIGN Total** $11,062.87

| 2230    | 62            | CONWAY BEAM TRUCK GROUP | 390292R | HEAVY DUTY MACK TRUCK PARTS | 5/8/2024 | $259.80 | Open |            |

| 2231    | 62            | CONWAY BEAM TRUCK GROUP | 390373R | HEAVY DUTY MACK TRUCK PARTS | 5/9/2024 | $77.14 | Open |            |

**CONWAY BEAM TRUCK GROUP Total** $336.94

| 2232    | 4387          | COLLIERS ENGINEERING & DESIGN | 934250 | PROFESSIONAL SERVICES - MULTIVERSITY PLAN | 4/1/2024 | $6,469.12 | Open |            |

| 2233    | 4387          | COLLIERS ENGINEERING & DESIGN | 943981 | PROFESSIONAL SERVICES - MULTIVERSITY PLAN | 5/4/2024 | $4,593.75 | Open |            |

**COLLIERS ENGINEERING & DESIGN Total** $11,062.87

| 2234    | 62            | CONWAY BEAM TRUCK GROUP | 390292R | HEAVY DUTY MACK TRUCK PARTS | 5/8/2024 | $259.80 | Open |            |

| 2235    | 62            | CONWAY BEAM TRUCK GROUP | 390373R | HEAVY DUTY MACK TRUCK PARTS | 5/9/2024 | $77.14 | Open |            |

**CONWAY BEAM TRUCK GROUP Total** $336.94
## TOWN OF BRIGHTON CLAIMS ABSTRACT FOR 5/22/2024

<table>
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<th>VENDOR NAME</th>
<th>INVOICE NUMBER</th>
<th>INVOICE DESCRIPTION</th>
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**TOWN OF BRIGHTON CLAIMS ABSTRACT FOR 5/22/2024**

**CLAIM NUMBER 2160 THROUGH 2404**

**DEPOSITORY TRUST COMPANY, THE Total**

$1,872.52

**DOLOMITE PRODUCTS CO., INC. Total**

$12,130.73

**EXCELLUS FSA & DENTAL Total**

$8,064.81

**EXODUS EXTERMINATING, INC. Total**

$57.75

**FIDELITY SECURITY LIFE INSURANCE CO. OF NEW YORK Total**

$878.61

**FN AT BALLSTON SPA, LLC Total**

$720.00

**FORBES COURT REPORTING SERVICES, LLC Total**

$436.00

**JOSEPH A GONZALEZ Total**

$800.00

Brightres05-22-24-CLAIMS (Details)  Page 3 of 8
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BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING THE ACQUISITION OF MACHINERY AND APPARATUS FOR USE BY THE TOWN; STATING THE MAXIMUM ESTIMATED COST THEREOF IS $375,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO $375,000 IN SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION

WHEREAS, the Town Board (the “Board”) of the Town of Brighton, Monroe County, New York (the “Town”) proposes to authorize the issuance of $375,000 in serial bonds of the Town to finance the acquisition of machinery and apparatus for use by the Town’s Highway Department (the “Project”), at an estimated maximum cost of $375,000; and

WHEREAS, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board (the “Town Board”) of the Town of Brighton, Monroe County, New York (the “Issuer” or the “Town”) (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the acquisition of machinery and apparatus for use by the Town’s Highway Department consisting of one plow truck. It is hereby determined that the maximum estimated cost of the aforementioned class of object or purpose is $375,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the $375,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds and (ii) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Town to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. Serial bonds of the Town in the principal amount of $375,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”) to finance the aforementioned class of object or purpose.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned class of object or purpose is fifteen (15) years, pursuant to subdivision 28. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall
constitute a declaration of official intent to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the “Town Supervisor”). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of Local Finance Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for the class of object or purpose authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more object or purpose authorized by other resolutions of the Board, then the power of the Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.
SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes authorized by this resolution in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 10. The Town Board hereby determines that the actions authorized by this resolution and the adoption hereof collectively constitute a “Type II” action within the meaning of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation thereunder (collectively, “SEQRA”) and that no further action under SEQRA need be taken by the Town Board as a condition precedent to the adoption of this resolution.

SECTION 11. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Board.

SECTION 12. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article 7 of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to publish and post a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper of the Town for such purpose.

SECTION 13. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 14. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or
(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 15. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<table>
<thead>
<tr>
<th>AYE</th>
<th>NAY</th>
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<tbody>
<tr>
<td>Town Board Member Corrado</td>
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<td>Town Board Member Wilt</td>
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<td>Town Board Member Salzman</td>
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<td>Town Board Member Werner</td>
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<tr>
<td>Town Supervisor Moehle</td>
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</tbody>
</table>

The resolution was thereupon declared duly adopted by a vote of ____ ayes and ____ nays.

Date: May 22, 2024
May 10, 2024

The Honorable Town of Brighton Board
Finance and Administrative Services Committee
2300 Elmwood Avenue
Rochester, New York 14618

Re: 2024 Highway Plow Truck Bond Resolution

Dear Honorable Town Board Members:

As part of the 2024 through 2026 Town Capital Improvement Plan and the 2024 Adopted Town Budget, a Plow Truck purchase was identified for funding in 2024 through the issuance of bonds. I am recommending that the Town Board adopt a bond resolution as prepared by Bond Counsel totaling $375,000 (the original estimate of this vehicle was $340,000) that will provide financing to purchase said equipment:

**Bond Resolution totaling $375,000 (Highway Vehicle)**

**Up to 15 Year repayment period: Bond Resolution $375,000**

1.) Purchase One Plow Truck - $375,000

The bond resolution should be adopted at the May 22, 2024, Town Board Meeting. This bond has a repayment period of more than five years and for that reason is subject to permissive referendum. This resolution will require 2/3rds majority vote by our Town Board (four of the five members). After the permissive referendum and/or estoppel periods have passed, the borrowing process can be completed. This bond issue will be sold as a consolidated issue with the Loader w Plow Package also arriving this fall. A Budget Amendment will be added upon approval of this bond resolution.

I will be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Sincerely,

**Earl Johnson**

Earl Johnson
Director of Finance
BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING THE ACQUISITION OF MACHINERY AND APPARATUS FOR USE BY THE TOWN; STATING THE MAXIMUM ESTIMATED COST THEREOF IS $293,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO $293,000 IN SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION

WHEREAS, the Town Board (the “Board”) of the Town of Brighton, Monroe County, New York (the “Town”) proposes to authorize the issuance of $293,000 in serial bonds of the Town to finance the acquisition of machinery and apparatus for use by the Town’s Highway Department (the “Project”), at an estimated maximum cost of $293,000; and

WHEREAS, the Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town’s serial bonds and bond anticipation notes to be issued to finance the aforementioned specific object or purpose.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board (the “Town Board”) of the Town of Brighton, Monroe County, New York (the “Issuer” or the “Town”) (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the acquisition of machinery and apparatus for use by the Town’s Highway Department consisting of one loader with plow package. It is hereby determined that the maximum estimated cost of the aforementioned class of object or purpose is $293,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of the $293,000 in serial bonds of the Town authorized to be issued pursuant to this resolution or bond anticipation notes issued in anticipation of such bonds and (ii) unless paid from other sources, the levy and collection of taxes on all taxable real property of the Town to pay the principal of such bonds or notes and the interest thereon as the same become due and payable.

SECTION 2. Serial bonds of the Town in the principal amount of $293,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the “Law”) to finance the Project.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned class of object or purpose is fifteen (15) years, pursuant to subdivision 28. of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of official intent to reimburse the expenditures authorized herein with the
proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the “Town Supervisor”). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of Local Finance Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for the class of object or purpose authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more object or purpose authorized by other resolutions of the Board, then the power of the Board to determine the “weighted average period of probable usefulness” (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as “qualified tax-exempt bonds” in accordance with Section 265(b)(3)(B)(i) of the Code.
SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes authorized by this resolution in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 10. The Town Board hereby determines that the actions authorized by this resolution and the adoption hereof collectively constitute a “Type II” action within the meaning of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation thereunder (collectively, “SEQRA”) and that no further action under SEQRA need be taken by the Town Board as a condition precedent to the adoption of this resolution.

SECTION 11. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Board.

SECTION 12. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article 7 of the Town Law of the State of New York (the “Town Law”). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to publish and post a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper of the Town for such purpose.

SECTION 13. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 14. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.
SECTION 15. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

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<tr>
<th>AYE</th>
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<tbody>
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<td></td>
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<tr>
<td>Town Supervisor Moehle</td>
<td></td>
</tr>
</tbody>
</table>

The resolution was thereupon declared duly adopted by a vote of ____ ayes and ____ nays.

Date: May 22, 2024
May 10, 2024

The Honorable Town of Brighton Board
Finance and Administrative Services Committee
2300 Elmwood Avenue
Rochester, New York 14618

Re: 2024 Highway Loader with Plow Package Bond Resolution

Dear Honorable Town Board Members:

As part of the 2024 through 2026 Town Capital Improvement Plan and the 2024 Adopted Town Budget, a Loader with Plow Package purchase was identified for funding in 2024 through the issuance of bonds. I am recommending that the Town Board adopt a bond resolution as prepared by Bond Counsel totaling $293,000 (the original estimate of this vehicle was $288,235) that will provide financing to purchase said equipment:

**Bond Resolution totaling $293,000 (Highway Vehicle)**

**Up to 15 Year repayment period: Bond Resolution $293,000**

1.) Purchase One Loader with Plow Package - $293,000

The bond resolution should be adopted at the May 22, 2024, Town Board Meeting. This bond has a repayment period of more than five years and for that reason is subject to permissive referendum. This resolution will require 2/3rds majority vote by our Town Board (four of the five members). After the permissive referendum and/or estoppel periods have passed, the borrowing process can be completed. This bond issue will be sold as a consolidated issue with the Plow Truck also arriving this fall. A Budget Amendment will be added upon approval of this bond resolution.

I will be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Sincerely,

*Earl Johnson*
Earl Johnson
Director of Finance
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,

Councilmembers

BE IT RESOLVED, that correspondence dated May 3, 2024 from Commissioner of Public Works James P. Sprague, P.E. regarding a request to authorize the Supervisor to execute a fourth amendment to the lease with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC to enlarge the lease area to house additional Dish Network infrastructure at the Town Highway Department facility, be received and filed, and be it further

RESOLVED, that the Town Board pursuant to the New York State Environmental Quality Review Act (SEQRA) hereby declares itself as Lead Agency and adopts the proposed negative declaration prepared by Town staff regarding the fourth amendment to the lease with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC to enlarge the lease area to house additional Dish Network infrastructure, and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute a fourth amendment to the lease with NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC, to enlarge the lease area to house additional Dish Network infrastructure at the Town Highway Department facility, subject to approval of the form of the lease amendment by the attorney to the Town.
Dated: May 22, 2024

<table>
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<tr>
<th>Name</th>
<th>Position</th>
<th>Vote</th>
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</thead>
<tbody>
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<td>William W. Moehle, Supervisor</td>
<td>Voting</td>
<td></td>
</tr>
<tr>
<td>Christopher K. Werner, Councilmember</td>
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<tr>
<td>Robin R. Wilt, Councilmember</td>
<td>Voting</td>
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<tr>
<td>Christine E. Corrado, Councilmember</td>
<td>Voting</td>
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</tr>
<tr>
<td>Nathaniel V. Salzman, Councilmember</td>
<td>Voting</td>
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20 May 2024

The Honorable Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York

Re: Crown Castle Cell Tower
Fourth Amendment to Option and Lease Agreement
Brighton Highway Garage Site

Dear Honorable Members:

The Town has been approached by Crown Castle with a request to expand the leased cell tower area located at the highway department facility at 1941 Elmwood Avenue, Brighton, New York. This request was reviewed by the highway department and presented to the Public Works Committee and the Finance and Administrative Services Committee. No objections have come to light. Because this amendment does involve adjustments to the commercial terms of the lease, it is being presented to the full Town Board for your consideration.

Should the Town Board find the proposed commercial terms acceptable, I recommend that the Town Board authorize the Town’s attorney to finalize the necessary legal documents to execute the proposed lease amendment. I also recommend that the Town Board authorize the Town Supervisor to sign the final legal documents when they are available, executing this proposed lease amendment.

Thank you for your attention to this matter.

Respectfully,

James P. Sprague, P.E.
Commissioner of Public Works

Attachments

cc: Bridget Monroe, Assistant to the Town Supervisor
    John Mancuso, Attorney to the Town
THIRD AMENDMENT TO OPTION AND LEASE AGREEMENT

THIS THIRD AMENDMENT TO OPTION AND LEASE AGREEMENT ("THIRD Amendment") dated as of the later date below (the "Effective Date") is by and between the Town of Brighton, a New York corporation, having a mailing address at 2300 Elmwood Avenue, Rochester, New York 14618 (hereinafter referred to as "Landlord"), and NCWPCS MPL 28 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company, by and through its attorney-in-fact CCATT LLC, a Delaware limited liability company, having a mailing address of 2000 Corporate Drive, Canonsburg, Pennsylvania 15317 (hereinafter referred to as "Tenant").

WHEREAS, Landlord and AT&T Wireless PCS, LLC d/b/a AT&T Wireless Services, LLC ("Original Tenant") entered into that certain Option and Lease Agreement dated June 27, 2000 ("Original Agreement"), as amended by that certain Amendment to Lease Agreement dated June 22, 2000 ("First Amendment") as further amended by that certain Second Amendment to Option and Lease Agreement dated in or about November 25, 2014 ("Second Amendment") (hereinafter the Original Lease, First Amendment and Second Amendment are collectively referred to as the "Agreement"), whereby Landlord leased to Original Tenant a portion of that property (said leased portion being the "Premises") located at 1941 Elmwood Avenue, (Assessor's Parcel Number 262000-136-160-0001-001-100), in the Town of Brighton, County of Monroe, State of New York, which property underlying the Premises (the "Property") is described in Liber 2734 of Deeds, Page 370 and Liber 1401 of Deeds, Page 577 in the County Register of Deeds Office ("Registry"), together with those certain access, utility and/or maintenance easements and/or rights of way granted in the Agreement; and

WHEREAS, NCWPCS MPL 28 - Year Sites Tower Holdings, LLC is currently the Tenant under the Agreement as successor-in-interest to Original Tenant; and

WHEREAS, the term of the Agreement, including all Extension Terms (as defined in the Agreement), will expire on July 31, 2034, and Landlord and Tenant now desire to enlarge the area leased, extend the term of the Agreement, to modify, as set forth herein, the Rent (as defined below) payable under the Agreement, and to make certain other changes, all as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Additional Premises. Landlord hereby agrees to lease to Tenant the Premises defined in the Agreement plus an additional 48 square feet of Landlord's Property as shown in a description and on a map attached hereto and labeled "Schedule A". The total new Premises to be leased by Landlord to Tenant under this Third Amendment shall be 728 square feet and shall be comprised of the Premises defined in the Agreement and that additional land as set for in Schedule A. Tenant may utilize said Premises only for the purposes set forth in the Agreement.
2. Term. The term of the Agreement shall be amended to provide that the Agreement has a new initial term of sixty (60) months ("New Initial Term"), commencing on August 1, 2022 (the "Effective Date") and expiring on July 31, 2027. As of such Effective Date, all remaining renewal and extension terms in the Agreement except as set forth herein shall be void and of no further force and consequence. The Agreement will be automatically renewed for up to four (4) additional sixty (60) month terms, and thereafter for one (1) term of twenty-four months (each an "Extension Term") upon the same terms and conditions of the Agreement, as amended herein, without further action by Tenant unless Tenant notifies Landlord in writing of Tenant's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then current Extension Term. Hereafter, the defined term "Term" shall include the New Initial Term and any applicable Extension Term. Landlord agrees and acknowledges that except that as such permitted use or other rights may be amended herein, Tenant may continue to use and exercise its rights under the Agreement as permitted prior to the New Initial Term. Unless sooner terminated as provided for in the Agreement, the Agreement shall expire on July 31, 2049.

3. Modification of Rent. Commencing on the Effective Date, the rent payable under the Agreement shall be Twenty-Four Thousand Seven Hundred Twenty-Two and 88/100 Dollars ($24,722.88) per year (the "Rent"), and shall continue during the Term, subject to adjustment, if any, as provided below. Rent shall be paid monthly by Tenant to Landlord in the amount of Two Thousand Sixty and 24/100 Dollars ($2,060.24).

4. Tenant shall continue to have the right to enter into subleases of the Premises as set forth in the Agreement with the continuing obligation to pay to Landlord 20% of all revenue Tenant receives from said subleases.

5. Future Rent Increase/ Extension Term Increase. The Agreement is amended to provide that commencing on August 1, 2027, Rent shall increase by fifteen percent (15%) and shall increase by fifteen percent (15%) at the beginning of each Extension Term thereafter.

6. Landlord hereby acknowledges that Tenant may enter into a sublease or license with Dish Wireless L.L.C. ("Dish") for all or a portion of the Premises for all uses permitted under the Agreement, including, without limitation, installing, operating and maintaining communications equipment, cables and shelters. Dish shall have the same rights of ingress and egress to the Premises, and the provision of utilities thereto, in the same manner and to the same extent as granted and conveyed to Tenant under the Agreement. This provision shall satisfy any requirement under the Agreement to provide notice or obtain consent for entering into a sublease or license with Dish.

7. As additional consideration for Landlord entering into this Third Amendment, pursuant to Section 16(c) of the Agreement and Section 4 above, Tenant agrees to pay to Landlord twenty percent (20%) of the rent received from Dish (the "Dish Revenue Share").

8. Section 17 of the Agreement is amended by deleting Tenant’s notice address and inserting the following:

    Tenant:       NCWPCS MPL 28 - Year Sites Tower Holdings LLC
                  Legal Department
                  Attn: Network Legal
                  208 S. Akard Street
                  Dallas, TX 75202-4206

Site Name: Brighton DPW
BU: 843085
PPAB 7024618v5
9. Acknowledgement. Landlord acknowledges that: (a) this Third Amendment is entered into of the Landlord's free will and volition; (b) Landlord has read and understands this Third Amendment and the underlying Agreement and, prior to execution of this Third Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this Third Amendment and to have counsel review the terms and conditions of this Third Amendment; (c) Landlord has been advised and is informed that should Landlord not enter into this Third Amendment, the underlying Agreement between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.

10. Memorandum of Agreement. Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Agreement substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

11. Other Terms and Conditions Remain. In the event of any inconsistencies between the Agreement and this Third Amendment, the terms of this Third Amendment shall control. Except as expressly set forth in this Third Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Third Amendment.

12. Capitalized Terms. All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.
IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Third Amendment on the date and year below.

Landlord:

Town of Brighton,
a New York corporation

By: ____________________________ (SEAL)
Print Name: ____________________________
Title: ____________________________
IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Third Amendment on the date and year below.

Tenant:
NCWPCS MPL 28 - Year Sites Tower Holdings LLC,
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company,
its Attorney in Fact

By: ___________________________(SEAL)
Print Name: ________________________
Title: __
SCHEDULE A

Metes and Bounds Description of Additional Land between the Town of Brighton

and

MCWPCS MPL 28 – Years Sites Tower Holdings LLC.

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF BRIGHTON, COUNTY OF MONROE, STATE OF NEW YORK, DESCRIBED IN DEED BOOK 2734, PAGE 370, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING FENCE CORNER, FOUND ON THE SOUTHEAST CORNER OF SAID PARCEL, AND HAVING NEW YORK STATE PLANE COORDINATES E:1414618',-N:1139458';

THENCE, N 31° 28' 20" W FOR A DISTANCE OF 193.89 FEET TO THE POINT OF BEGINNING;
THENCE, N 68° 53' 17" W FOR A DISTANCE OF 6.00 FEET TO A POINT;
THENCE, N 21° 06' 43" E FOR A DISTANCE OF 8.00 FEET TO A POINT;
THENCE, S 68° 53' 17" E FOR A DISTANCE OF 6.00 FEET TO A POINT;
THENCE, S 21° 06' 43" W FOR A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING, CONTAINING 48 SQFT -OR- 0.001 ACRES.

The above described parcel of land is intended to be a 48 square foot strip of land to be used for the installation, operation and maintenance of communications equipment, cables and shelters.
LEGAL DESCRIPTION: EXISTING TOWER LEASE (CREATED BY THIS OFFICE)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF BRIGHTON, COUNTY OF MONROE, STATE OF NEW YORK, DESCRIBED IN DEED BOOK 2734, PAGE 370, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING FENCE CORNER, FOUND ON THE SOUhteast Corner of Said Parcel, and Having New York State Plane Coordinates E:1414618', N:1139458';

THENCE, N 14° 22' 17" W FOR A DISTANCE OF 275.61 FEET TO THE POINT OF BEGINNING;

THENCE, N 68° 53' 17" W FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 21° 06' 43" E FOR A DISTANCE OF 34.00 FEET TO A POINT;

THENCE, S 68° 53' 17" E FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, S 21° 06' 43" W FOR A DISTANCE OF 34.00 FEET TO THE POINT OF BEGINNING, CONTAINING 680 SQFT -OR- 0.02 ACRES.

LEGAL DESCRIPTION: ADDITIONAL LAND (CREATED BY THIS OFFICE)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF BRIGHTON, COUNTY OF MONROE, STATE OF NEW YORK, DESCRIBED IN DEED BOOK 2734, PAGE 370, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING FENCE CORNER, FOUND ON THE SOUhteast Corner of Said Parcel, and Having New York State Plane Coordinates E:1414618', N:1139458';

THENCE, N 31° 28' 20" W FOR A DISTANCE OF 193.89 FEET TO THE POINT OF BEGINNING;

THENCE, N 68° 53' 17" W FOR A DISTANCE OF 6.00 FEET TO A POINT;

THENCE, N 21° 06' 43" E FOR A DISTANCE OF 8.00 FEET TO A POINT;

THENCE, S 68° 53' 17" E FOR A DISTANCE OF 6.00 FEET TO A POINT;

THENCE, S 21° 06' 43" W FOR A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING, CONTAINING 48 SQFT -OR- 0.001 ACRES.

LEGAL DESCRIPTION: TOWER LEASE (CREATED BY THIS OFFICE)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF BRIGHTON, COUNTY OF MONROE, STATE OF NEW YORK, DESCRIBED IN DEED BOOK 2734, PAGE 370, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING FENCE CORNER, FOUND ON THE SOUhteast Corner of Said Parcel, and Having New York State Plane Coordinates E:1414618', N:1139458';

THENCE, N 31° 28' 20" W FOR A DISTANCE OF 193.89 FEET TO THE POINT OF BEGINNING;

THENCE, N 68° 53' 17" W FOR A DISTANCE OF 6.00 FEET TO A POINT;

THENCE, N 21° 06' 43" E FOR A DISTANCE OF 8.00 FEET TO A POINT;

THENCE, S 68° 53' 17" E FOR A DISTANCE OF 6.00 FEET TO A POINT;

THENCE, S 21° 06' 43" W FOR A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING, CONTAINING 48 SQFT -OR- 0.001 ACRES.

THE EXISTING TOWER LEASE AND ADDITIONAL LAND COMBINE TO CREATE THE TOWER LEASE, CONTAINING 728 SQFT -OR- 0.02 ACRES.

LEGAL DESCRIPTION: ACCESS/UTILITY EASEMENT (CREATED BY THIS OFFICE)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF BRIGHTON, COUNTY OF MONROE, STATE OF NEW YORK, DESCRIBED IN DEED BOOK 2734, PAGE 370, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING FENCE CORNER, FOUND ON THE SOUhteast Corner of Said Parcel, and Having New York State Plane Coordinates E:1414618', N:1139458';

THENCE, S 31° 28' 20" W FOR A DISTANCE OF 193.89 FEET TO A POINT ON AN EXISTING 48 SQFT ADDITIONAL LAND;

THENCE, DEPARTING SAID ADDITIONAL LAND, S 21° 06' 43" W FOR A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF A 20-FOOT-WIDE ACCESS/UTILITY EASEMENT, Lying 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIPTION.

THENCE, N 68° 53' 17" W FOR A DISTANCE OF 31.39 FEET TO A POINT;

THENCE, N 81° 54' 17" W FOR A DISTANCE OF 20.62 FEET TO A POINT;

THENCE, N 23° 59' 24" W FOR A DISTANCE OF 21.16 FEET TO A POINT;

THENCE, N 56° 24' 01" E FOR A DISTANCE OF 53.07 FEET TO A POINT;

THENCE, N 21° 06' 43" E FOR A DISTANCE OF 100.34 FEET TO A POINT;

THENCE, N 68° 53' 17" W FOR A DISTANCE OF 125.27 FEET TO A POINT;

THENCE, N 17° 32' 44" E FOR A DISTANCE OF 115.91 FEET TO A POINT;

THENCE, N 83° 49' 12" E FOR A DISTANCE OF 99.86 FEET TO A POINT;

THENCE, N 58° 14' 55" E FOR A DISTANCE OF 46.92 FEET TO A POINT;

THENCE, N 23° 06' 50" E FOR A DISTANCE OF 131.98 FEET TO A POINT;

THENCE, N 20° 17' 35" E FOR A DISTANCE OF 200.37 FEET TO A POINT;

THENCE, N 20° 18' 55" E FOR A DISTANCE OF 211.87 FEET TO A POINT Lying ON THE SOUTHERN RIGHT OF WAY OF ELMWOOD AVE, A DEDICATED PUBLIC RIGHT OF WAY, BEING THE WEST POINT OF TERMINUS, CONTAINING 23417 SQFT -OR- 0.54 ACRES.
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May, 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor
CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,
Councilmembers

BE IT RESOLVED, that memorandum dated May 17, 2024 from Town Supervisor William W. Moehle recommending the appointment of Clara Sanguinetti of 285 Warrington Drive, Rochester, New York 14618, as a member of the Town Planning Board to complete the term of Julie Ford, effective immediately through the remainder of the unexpired term, December 31, 2024, and to then serve the standard seven-year term, expiring on December 31, 2032, be received and filed; and be it further

RESOLVED, that the Town Board hereby appoints Clara Sanguinetti of 285 Warrington Drive, Rochester, New York 14618, as a member of the Town Planning Board to complete the term of Julie Ford, effective immediately through the remainder of the unexpired term, December 31, 2024, and to then serve the standard seven-year term, expiring on December 31, 2032.

Dated: May 22, 2024

William W. Moehle, Supervisor Voting ___
Christopher K. Werner, Councilmember Voting ___
Robin R. Wilt, Councilmember Voting ___
Christine E. Corrado, Councilmember Voting ___
Nathaniel V. Salzman, Councilmember Voting ___
TO: Honorable Town Board
FROM: William W. Moehle, Supervisor
DATE: May 17, 2024
RE: Appointment to the Planning Board

I hereby recommend that Clara Sanguinetti of 285 Warrington Drive, Rochester, New York, 14618 be appointed to the Planning Board to complete the term of Julie Ford, which ends December 31, 2024, and to then serve the standard seven-year term, which expires on December 31, 2032.
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,
Councilmembers

BE IT RESOLVED, that correspondence dated May 15, 2024 from Commissioner of Public Works James P. Sprague, P.E. and corresponding tree reports regarding a request to set a public hearing for proposed tree removal and replacement of a 34” DBH Honey Locust at 340 Dunrovin Lane, be received and filed; and further

BE IT RESOLVED, that the Town Board hereby sets a public hearing for June 26, 2024 7:00 p.m. or as soon thereafter as the matter may be heard at Brighton Town Hall, 2300 Elmwood Avenue, Brighton, New York and said hearing shall be conducted pursuant to Chapter 175 of the Town Code for the proposed tree removal and replacement of a 34” DBH Honey Locust at 340 Dunrovin Lane; and

BE IT FURTHER RESOLVED that the Town Clerk in concert with the Commissioner of Public Works or his designee post and publish notice of the public hearing as required and further provide notice of such public hearing by first class mail at least 20 days prior to the scheduled hearing addressed to the owners of each of the properties adjoining the above referenced trees and the owners directly across the Town highway from said trees and the properties contiguous to the properties adjoining the above referenced trees that front on the same Town highway.
Dated: May 22, 2024

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>William W. Moehle, Supervisor</td>
<td>Voting</td>
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<tr>
<td>Christopher K. Werner, Councilmember</td>
<td>Voting</td>
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<td>Robin R. Wilt, Councilmember</td>
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<td>Christine E. Corrado, Councilmember</td>
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<tr>
<td>Nathaniel V. Salzman, Councilmember</td>
<td>Voting</td>
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</tbody>
</table>
15 May 2024

The Honorable Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York

Re: Tree removals

Honorable Members:

A significant tree removal was referred to the Conservation Board for review via Department of Public Works letter dated 24 May 2024 (copy attached). Conservation Board support for the recommended removal and replacement was reported in their letter of 8 May 2024 (copy attached). This proposed removal was presented to the Public Works Committee on 14 May 2024 and referred to the full Town Board for action.

I recommend that the Town Board approve the removal of this significant tree. Under Town of Brighton Code, Chapter 175, Trees, the proposed removal of a significant tree requires reviewing that proposed removal at a public hearing. Therefore, I request that the Town Board set a time and date for the required public hearing for the removal of this significant tree.

Thank you for your attention to this matter.

Respectfully,

James P. Sprague, P.E.
Commissioner of Public Works

Attachments
24 April 2024

The Honorable Tree Council
Town of Brighton
2300 Elmwood Ave.
Rochester, New York

Re: Tree Evaluations and Recommendations

Honorable Members:

I request your review and comment regarding the proposed recommendation for the following tree.

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>340 Dunrovin Lane</td>
<td>34” DBH Honey Locust</td>
<td>Removal and Replacement</td>
</tr>
</tbody>
</table>

A copy of the Tree Evaluation Hazard Form for this tree is attached for your reference. This tree exhibits compromised health, structural deficiencies and/or safety issues as noted in the attached report. Its location is a cause for concern for the general public which supports the recommendation presented. Thank you for your attention to this matter and I look forward to your review of this tree.

Respectfully,

James P. Sprague, P.E.
Commissioner of Public Works

Attachments

Cc: Deputy Commissioner of Public Works
    William Haefner
    Kyle Sears
    Rick Distefano
May 8, 2024

James Sprague, Commissioner of Public Works
Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

RE: Tree Removal(s)

Dear Commissioner Sprague:

In response to your letter, dated April 24, 2024, and attached tree evaluation form regarding the proposed removal of a town trees located at

340 Dunrovin Lane  34" Honey locust

the Tree Council reviewed the form and visited the site. The Council is in agreement with the evaluations and supports the removal of the identified tree, and as recommended agrees a replacement tree should be planted at the removal site.

Sincerely,

Rick DiStefano, Secretary
Brighton Tree Council
A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas

TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: 340 Dunrovin Lane
Map/Location: Easterly side of street
Owner: public [✓] private [ ] unknown [ ] other [ ]
Date: 4/8/24 Inspector: Kyle Sears (NY-4683A)
Date of last inspection: 

HAZARD RATING:

\[
\frac{3 + 4 + 4}{11} = 1
\]

Potential

Failure of part of target = Hazard Rating

[✓] Immediate action needed

Needs further inspection

Dead tree

TREE CHARACTERISTICS

Tree #: 2815 Species: Honey Locust
DBH: 34" # of trunks: 1 Height: 50' Spread: 35'
Form: [✓] generally symmetrical [ ] minor asymmetry [ ][ ] major asymmetry [ ] stump sprout [ ] stag-headed
Crown class: [ ] dominant [ ][ ] co-dominant [ ] intermediate [ ][ ] suppressed
Live crown ratio: [✓] 75% Age class: [ ] young [ ] semi-mature [✓] mature [ ] over-mature/senescent
Pruning history: [ ] crown cleaned [ ] excessively thinned [ ] topped [ ] crown raised [ ] pollarded [ ] crown reduced [ ] flush cuts [ ] cabled/braced [ ] none [✓] multiple pruning events Approx. dates: 
Special Value: [ ] specimen [ ] heritage/historic [ ] wildlife [ ] unusual [✓] street tree [ ] screen [ ] shade [ ] indigenous [ ] protected by gov. agency

TREE HEALTH

Foliation color: [ ] normal [ ] chlorotic [ ] necrotic Epicormies? [ Y ] N Growth obstructions:
Foliation density: [ ] normal [ ] dense Leaf size: [ ] normal [ ] small [ ][ ] [ ] [ ] [ ] Slares [ ] wire/ties [ ] signs [ ] cables
Annual shoot growth: [ ] excellent [ ] average [ ] poor Twig Dieback? [ ] N [✓]
Woundwood development: [ ] excellent [ ] average [ ] poor [ ] none [ ] other
Vigor class: [ ] excellent [ ] average [ ] fair [ ] poor
Major pests/diseases: Woodpeckers, Insects, Borer/June Beetle, Black Stump (heart rot)

SITE CONDITIONS

Site Character: [ ] residence [ ] commercial [ ] industrial [ ] park [ ] open space [ ] natural [ ] woodland/forest
Landscape type: [ ] parkway [ ] raised bed [ ] container [ ] mound [ ] lawn [ ] shrub border [ ] wind break
Irrigation: [ ] none [✓] adequate [ ] inadequate [ ] excessive [ ] trunk wettled
Recent site disturbance? [ ] construction [ ] soil disturbance [ ] grade change [ ] line clearing [ ] site clearing
% drique paved: [ ] 0% [ ] 10-25% [ ] 25-50% [ ] 50-75% [ ] 75-100% Pavement lifted? [ Y ] N
% drique w/ fill soil: [ ] 0% [ ] 10-25% [ ] 25-50% [ ] 50-75% [ ] 75-100%
% drique grade lowered: [ ] 0% [ ] 10-25% [ ] 25-50% [ ] 50-75% [ ] 75-100%
Soil problems: [ ] drainage [ ] shallow [ ] compacted [ ] droughty [ ] saline [ ] alkaline [ ] acidic [ ] small volume [ ] disease center [ ] history of fail
[ ] clay [ ] expansive [ ] slope [ ] aspect: 
Obstructions: [ ] lights [ ] signage [ ] line-of-sight [ ] view [ ] overhead lines [ ] underground utilities [ ] traffic [ ] adjacent veg. [ ]
Exposure to wind: [ ] single tree [ ] below canopy [ ] above canopy [ ] recently exposed [ ] windward, canopy edge [ ] area prone to windthrow
Prevailing wind direction: [ ] Westernly Occurrence of snow/ice storms [ ] never [ ] seldom [✓] regularly

TARGET

Use Under Tree: [✓] building [✓] parking [✓] traffic [✓] pedestrian [✓] recreation [ ] landscape [ ] hardscape [ ] small features [ ] utility lines
Can target be moved? [ Y ] N Can use be restricted? [ Y ]

Occupancy: [ ] occasional use [ ] intermittent use [ ] frequent use [✓] constant use

The International Society of Arboriculture assumes no responsibility for conclusions or recommendations derived from use of this form.
**TREE DEFECTS**

**ROOT DEFECTS:**
- Suspect root rot: ☐ X
- Mushroom/sink/bracket present: Y N ID: __________
- Exposed roots: ☐ severe ☑ moderate ☐ low
- Undetermined: ☐ severe ☐ moderate ☑ low
- Root pruned: __________ distance from trunk
- Root area affected: __________ %
- Buttress wounded: Y N When: __________
- Restricted root area: ☐ severe ☐ moderate ☑ low
- Potential for root failure: ☐ severe ☐ moderate ☑ low
- Lean: __________ deg. from vertical ☑ natural ☐ unnatural ☐ self-corrected
- Soil heaving: Y N
- Decay in plane of lean: Y N
- Roots broken: Y N
- Soil cracking: Y N
- Compressing factors: Severe cracking/spalling/End weight Decay
- Lean severity: ☐ severe ☐ moderate ☑ low

**ROOT CROWN DEFECTS:**
<table>
<thead>
<tr>
<th>DEFECT</th>
<th>ROOT CROWN</th>
<th>TRUNK</th>
<th>SCAFFOLDS</th>
<th>BRANCHES</th>
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</thead>
<tbody>
<tr>
<td>Poor taper</td>
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<tr>
<td>Bow, sweep</td>
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<tr>
<td>Codominant forks</td>
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<tr>
<td>Multiple attachments</td>
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<tr>
<td>Included bark</td>
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<td>Excessive end weight</td>
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<tr>
<td>Cracks/splits</td>
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<tr>
<td>Hangers</td>
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<tr>
<td>Girdling</td>
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<td>Wounds/seam</td>
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<td>Decay</td>
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<tr>
<td>Cavity</td>
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<tr>
<td>Conks/mushrooms/bracket</td>
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<tr>
<td>Bleeding/gas flow</td>
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<tr>
<td>Loose/marked bark</td>
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<tr>
<td>Nesting hollow hive</td>
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<tr>
<td>Deadwood/stubs</td>
<td>5</td>
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<td>5</td>
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<tr>
<td>Borers/termite/ants</td>
<td>5</td>
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<tr>
<td>Cankers/galls/burls</td>
<td>5</td>
<td>5</td>
<td>5</td>
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<tr>
<td>Previous failure</td>
<td>5</td>
<td>5</td>
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<td></td>
</tr>
</tbody>
</table>

**HAZARD RATING**

Tree part most likely to fail: TRUNK

Inspection period: __________ annual __________ biannual __________ other __________

Failure Potential + Size of Part + Target Rating = Hazard Rating

3 + 4 + 4 = 11

**HAZARD ABATEMENT**

Prune: ☐ remove defective part ☐ reduce end weight ☐ crown clean ☐ thin ☐ raise canopy ☐ crown reduce ☐ restructure ☐ shape

Cable/Brace: __________

Remove tree: Y N Replace? Y N Move target: Y N Other: __________

Inspect further: ☐ root crown ☐ decay ☐ aerial ☐ monitor

Effect on adjacent trees: ☐ none ☐ evaluate

Notification: ☐ owner ☐ manager ☐ governing agency Date: __________

**COMMENTS**

Severe End weight on some leads with included bark. Entire trunk of tree has insect/bofer damage along with splitting/cracking. Insects are also in leads of the tree with the damage apparent by woodpeckers. Tree is in poor health/declining and has potential for failure. Recommend removal and replace with new (further away from existing driveway).
SEVERE SPLITTING/CRAKING

WESTERLY SIDE OF TREE
INSECT/BORER DAMAGE
SPLITTING/CRAKING

SOUTHERLY SIDE OF TREE
EASTERLY SIDE OF TREE
(MULTIPLE AREAS OF INSECT/BORER DAMAGE)
SEVERE WOODPECKER DAMAGE IN LEAD

SPLITTING/CRACKING
SPLITTING/CRAKING IN LEAD
GIRDLING ROOTS
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May, 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,

Councilmembers

BE IT RESOLVED, that correspondence dated May 17, 2024 from Senior Planner Rick DiStefano regarding a request to determine pursuant to Chapter 209 of the Town Code that an incentive zoning/rezoning application submitted by Home Leasing and Providence Housing for the development of an affordable housing community located on the south side of Elmwood Avenue bordering the City of Rochester (Tax ID# 136.14-1-1.2 and 136.14-1-1.3) is worthy of further consideration and that it be referred to the Planning Board, be received and filed together with a copy of said application and its supporting materials, and be it further

RESOLVED, that the Town Board hereby determines pursuant to Chapter 209 of the Town Code that the incentive zoning proposal submitted by Home Leasing and Providence Housing for the development of an affordable housing community located on the south side of Elmwood Avenue bordering the City of Rochester (Tax ID# 136.14-1-1.2 and 136.14-1-1.3) is worthy of further consideration, and it is hereby further

RESOLVED, that the Town Board hereby refers the application to the Planning Board for its review and evaluation of the adequacy with which the amenity(s)/incentive(s) fits the site and how it relates to adjacent uses and structures, and for a report on the proposed amendment to the Zoning Map pursuant to Section 225-6(B) of the Town Code.
Dated: May 22, 2024

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Vote</th>
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</thead>
<tbody>
<tr>
<td>William W. Moehle, Supervisor</td>
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<tr>
<td>Nathaniel V. Salzman, Councilmember</td>
<td>Voting</td>
<td>___</td>
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</tbody>
</table>
May 20, 2024

The Honorable Town of Brighton Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York 14618

Re: 1950-1966 Monroe Avenue Quicklees Proposed Stormwater Maintenance Agreement

Dear Supervisor Moehle and Town Board Members:

The Quicklees project located at 1950-1966 Monroe Avenue includes a Stormwater Maintenance Agreement which is required for the project. We are requesting that the Town Board authorize the Town Supervisor to execute this Agreement along with related documents for the above referenced project. The agreement documentation will be reviewed and approved by the Town Attorney and Staff before the document is presented to the Town Supervisor for signature.

As always, your consideration of matters such as this is greatly appreciated. A member of the DPW will be in attendance at your May 22, 2024, meeting to respond to any questions.

Respectfully,

Ken Hurley
Department of Public Works

Cc: Jim Sprague
    Rick DiStefano
    John Mancuso
STORM DRAINAGE MAINTENANCE AGREEMENT
QUICKLEE’S TWELVE CORNERS

THIS STORM DRAINAGE MAINTENANCE AGREEMENT (this “Agreement”) is made as of the 8th day of May, 2024 by and between the TOWN OF BRIGHTON (the “Town”) and 1950-1966 MONROE AVENUE, LLC, having offices at 2060 Lakeville Road, Avon, New York 14414 (“Sponsor”).

WHEREAS, Sponsor is the owner of property located at 1950 Monroe Avenue, Town of Brighton, County of Monroe, State of New York, bearing tax ID number 137.10-5-1, or any address or tax ID number subsequently assigned to the (resubdivided) property (the “Site”); and,

WHEREAS, Sponsor intends to construct a fuel station and convenience store at the Site open to the general public (the “Project”); and,

WHEREAS, Sponsor is obligated to comply with Federal, State and local regulations regarding stormwater quantity and quality mitigation, inclusive of Chapter 215, Stormwater Management of the Town Code of the Town of Brighton; and,

WHEREAS, the Town and Sponsor mutually desire to provide stormwater quantity attenuation and enhanced stormwater quality mitigation measures in conjunction with the redevelopment of the Site, specifically, the installation of onsite best management practices and a connection to the Elmwood Avenue storm drainage system (the “Improvements”); and,

WHEREAS, the proper performance of the Improvements require connection to the storm drainage system within the Elmwood Avenue right of way adjoining the Site, and the Town will allow such a connection at the expense of Sponsor; and,

WHEREAS, Sponsor will incorporate the Improvements into the scope of Site work associated with the construction of the Improvements at their sole expense; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as set forth herein, it is agreed as follows:

1. The Improvements. The work shall consist of installing a 12” diameter HDPE drainage pipe as the connection to the existing drainage catch basin and the existing drainage system along Elmwood Avenue and all incidental and necessary appurtenances as described within the engineering report, depicted upon the Project plans as designed by LandTech Surveying & Planning.

2. Maintenance. During the term of this Agreement, Sponsor shall bear all responsibility, including, but not limited to, the inspection, cleaning, flushing and all other maintenance procedures (the “Maintenance”) of the onsite treatment units necessary for the system(s) to operate in accordance with the manufacturers’ required protocol for the Improvements. At a minimum, the Maintenance shall be performed no less than once a year, between May 1st and May 31st of each year. A detailed report certifying the extent of the Maintenance procedures shall be provided to the Town Department of Public Works by June 15th of each year, prepared by a professional engineer licensed to practice in the State of New York or other professional qualified to perform such work.

3. The Costs of Improvements. The costs of construction and/or installation of all Improvements shall be borne by Sponsor.
4. **No Liability.** The Town shall not be responsible for any loss or damage incurred by Sponsor or its agents, tenants, employees, contractors or invitees, in connection with this Agreement. Furthermore, no language contained herein shall be construed as the Town assuming any obligations of Sponsor, relieving Sponsor of their duties associated with the inspection, operation and/or Maintenance of the system(s).

5. **Indemnity.** Sponsor shall indemnify and hold the Town harmless at all times from and after the date of this Agreement, including from all claims, damage, liability and expense, including legal fees, arising from, related to or in any way connected with the Agreement, except claims, damage, liability and expenses caused by a negligent, willful or wrongful act or omission on the part of the Town and/or any of its employees, agents or contractors.

6. **Default.** If Sponsor fails in the due performances of any of its obligations under the terms of this Agreement, the Town shall have the right to issue a notice of default in accordance with the following:

   A) After a twenty-four (24) hour period from the issuance of written, facsimile, or electronic notice for correction of an emergency Maintenance situation(s) and remedial action has not been performed to the satisfaction of the Town by Sponsor or its agent(s); and/or

   B) After a thirty (30) day period from the issuance of written or email notice for correction of routine Maintenance procedure(s) (including failure to properly perform the Maintenance) and remedial action has not been performed to the satisfaction of the Town by Sponsor or its agent(s);

In accordance with the above conditions, the Town may then issue written or email (with confirmation of receipt) notice for default and at its election, (a) cause the necessary Maintenance to be performed immediately and to add the costs thereof to the property tax bill issued to Sponsor for the Site, and/or (b) to sue for damages for such breach and to seek such legal and equitable remedies as may be available to it, including the right to recover all expenses including legal fees.

An emergency is defined as, but not necessarily limited to, a situation that presents an immediate threat to the well-being of property and/or personal health of individuals and/or the general public. Routine is defined as, but not necessarily limited to, regular Maintenance and care, recommended or otherwise, of the system(s) for its ability to operate in accordance with the intended performance parameters. Pursuant to Section 4, the Town assumes none of Sponsor’s obligations with regards to maintaining the system.

Sponsor shall provide below the name, title and contact information of the person in their employ who shall be notified in accordance with the terms and conditions of this paragraph and may be reached twenty-four hours a day. Sponsor shall be responsible to promptly inform the Town of any changes that may occur with regards to this information.

7. **Term.** The Term of this Agreement will commence upon execution by both Parties and will remain permanently in full force and effect from the date of this Agreement.

8. **Successors and Assigns.** The terms of this Agreement shall be perpetually binding upon Sponsor, their heirs, successors and all subsequent property owners. This Agreement and the obligations thereof shall not be assigned, transferred or otherwise disposed of by Sponsor.
9. **Modifications.** This document represents the full and complete agreement between the parties. No changes may be made to any of the terms of this Agreement, nor any provision revised or waived, except in writing signed by both parties.

10. **Severability.** If a court of competent jurisdiction finds any provisions of this Agreement invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated as being invalid. All other provisions of this agreement shall remain in full and separate effect.

11. **Authorization.** The undersigned represent that they are authorized to execute this Agreement on behalf of the Town or Sponsor, and that the Town and Sponsor are authorized to enter into this Agreement and perform its obligations described herein.

12. **Filing.** Sponsor shall file this document at the Monroe County Clerk's Office upon its execution and provide a copy of the date/time stamped filed document to the Town along with the transaction receipt from the County Clerk's Office.

13. **Counterparts.** This Agreement may be executed in counterparts, which shall be read together as a single, integrated instrument.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first set forth above.

SPONSOR:

1950-1966 MONROE AVENUE, LLC

By: PEMM, LLC
Its: Sole Member

By: __________________________
Name: Kenneth Perelli
Title: Vice President

TOWN OF BRIGHTON:

By: __________________________
Name: _________________________
Title: __________________________

STATE OF NEW YORK )
COUNTY OF Livingston ) ss:

On this 8th day of May, 2024, before me, the undersigned, personally appeared KENNETH PERelli, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Norma J. Pellegrino
Notary Public

STATE OF NEW YORK )
COUNTY OF MONROE ) ss:

On this __ day of __________________, 2024, before me, the undersigned, personally appeared WILLIAM W. MOEHLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May, 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,

Councilmembers

BE IT RESOLVED, that correspondence dated May 16, 2024 from James P. Sprague, P.E. regarding a request that the Town Board consider a proposed exchange of certain parcels of real property between the Town of Brighton and Grove Underhill Properties LLC in connection with the proposed development of land located in the Berman Farms subdivision west of Schilling Lane and north of Westfall Road in the Town, be received and filed, and be it further

RESOLVED, that the Town Board hereby determines that the proposal is worthy of further consideration for the purpose of permitting Grove Underhill Properties LLC to cause to be prepared, at its sole cost and expense, any and all necessary appraisals of the above-referenced real property in order for the Town to secure the best price obtainable or the most beneficial terms in the public interest, be it further

RESOLVED, that the Town of Brighton shall not be deemed pursuant to this resolution to have approved any proposal by Grove Underhill Properties LLC concerning the proposed exchange of parcels with the Town or the development of the parcels located in the Berman Farms subdivision, which is subject to review and approval in accordance with the Town Comprehensive Development Regulations, be it further

RESOLVED, that the Town Board hereby determines that this is a Type II action exempt from review under the New York State Environmental Quality
Review Act pursuant to Section 617.5(c)(27) of Title 6 of the New York Code of Rules and Regulations, which includes “conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action.”

Dated: May 22, 2024

William W. Moehle, Supervisor  Voting ___
Christopher K. Werner, Councilmember  Voting ___
Robin R. Wilt, Councilmember  Voting ___
Christine E. Corrado, Councilmember  Voting ___
Nathaniel V. Salzman, Councilmember  Voting ___
16 May 2024

The Honorable Town Board  
Town of Brighton  
2300 Elmwood Ave.  
Rochester, New York

Re: Berman Farms Land Swap

Dear Honorable Members:

Berman Farms is an existing, undeveloped, subdivision located west of Schilling Lane and north of Westfall Road. Grove Underhill Properties LLC (Grove Underhill) currently owns 14 parcels in this subdivision, and the Town of Brighton owns 6 parcels. Grove Underhill wishes to proceed with developing the portion of Berman Farms that they own. However, the arrangement of the lots that they currently own is not conducive to an efficient site development project. Grove Underhill and their engineering consultants, BME Associates, attended the April Public Works Committee (PWC) to present the idea of a land swap with the Town of Brighton.

The attached materials detail the proposed land swap. The goal of the land swap is to consolidate Grove Underhill’s holdings so that they can develop those lots, and the associated streets, in a cost effective manner. The PWC heard Grove Underhill’s description of the benefits to the Town of Brighton of executing this land swap, and had a robust discussion of the pros and cons of the proposal. The PWC felt that the proposal warranted further consideration by the full Town Board. Therefore, I recommend that consideration of this proposed land swap be placed on the next Town Board agenda. Further, if the full Town Board is supportive of investigating this proposal further, I recommend that the Town Board direct the Town’s attorney to detail the steps necessary to execute such a land swap. That guidance from the Town’s attorney would then become a guide for what the Town and the developer need to do next to investigate this possibility.

Thank you for your attention to this matter.

Respectfully,

[Signature]

James P. Sprague, P.E.  
Commissioner of Public Works

Attachment

cc: Bridget Monroe, Assistant to the Town Supervisor  
John Mancuso, Attorney to the Town
April 2, 2024

Mr. James Sprague, PE
Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

Re: Berman Farms
Public Works Committee Meeting

Dear Jim:

On behalf of our client and property owner, Grove Underhill Properties LLC, we provide to you the enclosed materials for review with the Town of Brighton Public Works Committee next Tuesday, April 9, 2024. The materials lay out a proposed plan of a land swap between Grove Underhill and the Town of Brighton, and a subsequent single-family home residential development of the lands.

Grove Underhill owns fourteen (14) tax parcels totaling ±7.11 acres to the west of Havens Road and Schilling Lane off of South Clinton Avenue. The tax parcels are part of a “paper subdivision” known as Berman Farms. The Town of Brighton owns six (6) tax parcels in this same “paper subdivision” which totals ±3.14 acres. The properties are zoned RM - Residential Medium.

Grove Underhill desires to develop the lands under their control as a single-family home residential subdivision per the properties’ RM zoning. The development would propose an extension of the public street, Havens Road, into the property and propose lots at a minimum 55’ wide, 7,000 sf lot area per the RM zoning standards. A concept plan is enclosed to illustrate a possible subdivision layout.

As has been discussed with the Town of Brighton, Grove Underhill is proposing a land swap of tax parcels between Grove Underhill and the Town of Brighton. The ownership exhibit illustrates the land swap proposal the property owner wishes to review with the Public Works Committee. The property owner proposes an exchange with the Town of three (3) tax parcels each. Grove Underhill would convey to the Town tax parcels -17, -18 & -19 in return for the Town conveying to Grove Underhill tax parcels -03, -04 & -33.

The tax parcels offered to the Town are located at the southeast corner of Grove Underhill’s holdings. Two of these parcels, -18 & -19, are actually landlocked as there is no feasible means for the existing street Duffield Road to be constructed to serve these two (2) tax parcels given the development of Schilling Lane cut off any possible extension of Duffield Road. The three (3) tax parcels offered by Grove Underhill are contiguous to other tax parcels owned by the Town, and as illustrated would create a contiguous area of ±2.7± acres of Town lands when combined with existing Town tax parcels -13, -15 & -16.

The three (3) tax parcels of the Town’s sought by Grove Underhill would provide a single property owner of the tax parcels along the west property line fronting on the Powell Road right-of-way. This would facilitate an ease of completing the development of this paper subdivision without having fragmented ownership of the lots.
The total area of lands to be conveyed to the Town would be ±1.43 acres, and the total area of land to be conveyed by the Town to Grove Underhill would be ±1.8 acres.

The lands to be acquired by the Town would allow for potential passive recreation uses for existing and future residents of these neighborhoods. It would also ensure a buffer between the existing and proposed neighborhoods. The exhibits provided illustrate a proposed trail connection between the Town lands and the existing Highland Crossing Trail to the west of the property. This would allow for direct trail access for both the proposed neighborhood and the existing Schilling Lane neighborhood, which currently has sidewalks and pedestrian access to South Clinton Avenue.

We will appear at the Public Works Committee meeting on Tuesday, April 9th, to present this proposal and discuss with the Committee. In the interim, if you require any additional information, please contact our office.

Sincerely,

BME ASSOCIATES

Peter G. Vars, P.E.

PGV:blr

Encl.

c: Mitch Brodsky; Grove Underhill Properties LLC
    Jeff Bell; Grove Underhill Properties LLC
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May, 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,

Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,

Councilmembers

BE IT RESOLVED, that correspondence dated May 20, 2024 from Superintendent of Parks Matthew Beeman requesting approval of budget amendments to transfer $6,000.00 from account A.PARKS 7122.4.11 (Corbett’s Glen maintenance supplies) to account A.PARKS 7115.2.40 (Buckland Park maintenance equipment) and $2,741.66 from account A.PARKS 7126.4.11 (Frankel Park maintenance supplies) to account A.PARKS 7115.2.40 (Buckland Park maintenance equipment), to fund the purchase of a zero turn finish mower, be received and filed; and be it further

RESOLVED, that the Town Board hereby approves budget amendments to transfer $6,000.00 from account A.PARKS 7122.4.11 (Corbett’s Glen maintenance supplies) to account A.PARKS 7115.2.40 (Buckland Park maintenance equipment) and $2,741.66 from account A.PARKS 7126.4.11 (Frankel Park maintenance supplies) to account A.PARKS 7115.2.40 (Buckland Park maintenance equipment), to fund the purchase of a zero turn finish mower.

Dated: May 22, 2024

William W. Moehle, Supervisor  Voting ___
Christopher K. Werner, Councilmember  Voting ___
Robin R. Wilt, Councilmember  Voting ___
Christine E. Corrado, Councilmember  Voting ___
Nathaniel V. Salzman, Councilmember  Voting ___
May 20, 2024

Honorable Finance Committee
Town of Brighton
2300 Elmwood Avenue
Rochester, NY 14618

Re: Transfer of funds – Equipment Purchase

Honorable Members:

I would like to recommend that the following budget transfers be approved from the following accounts:

1.) Corbett’s Glen maintenance supplies (A.PARKS 7122 4.11) in the amount of $6,000
   To the following:
   Buckland Park maintenance equipment (A.PARKS 7115 2.40) in the amount of $6,000

2.) Frankel Park maintenance supplies (A.PARKS 7126 4.11) in the amount of $2,741.66
   To the following:
   Buckland Park maintenance equipment (A.PARKS 7115 2.40) in the amount of $2,741.66.

This transfer will allow the department to purchase a much needed upgraded zero turn finish mower. Even with our current mowing contract the department is still responsible for mowing additional parkland and trails which are not included in the contract as well as providing extra cuts on athletic fields during the busy spring and fall growing seasons. Our current finish mower is a 48” zero turn that was purchased in 2014. This transfer will allow for an upgrade to a 60” zero turn that will grant us more efficiency with our maintenance schedule.

Sincerely,

Matt Beeman
Superintendent of Parks

Cc: E. Johnson, A. Banker, B. Monroe
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,
Councilmembers

BE IT RESOLVED, that correspondence dated May 20, 2024 from Town Engineer Ken Hurley, P.E. regarding a request to authorize the Supervisor to execute a Stormwater Maintenance Agreement in connection with the Quicklees incentive zoning project located at 1950-1966 Monroe Avenue in the Town of Brighton, be received and filed, and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute a Stormwater Maintenance Agreement in connection with the Quicklees incentive zoning project located at 1950-1966 Monroe Avenue in the Town of Brighton, subject to approval of the form of the agreement by the attorney to the Town.

Dated: May 22, 2024

William W. Moehle, Supervisor Voting ___
Christopher K. Werner, Councilmember Voting ___
Robin R. Wilt, Councilmember Voting ___
Christine E. Corrado, Councilmember Voting ___
Nathaniel V. Salzman, Councilmember Voting ___
May 20, 2024

The Honorable Town of Brighton Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York 14618

Re: 1950-1966 Monroe Avenue
Quicklees
Proposed Stormwater Maintenance Agreement

Dear Supervisor Moehle and Town Board Members:

The Quicklees project located at 1950-1966 Monroe Avenue includes a Stormwater Maintenance Agreement which is required for the project. We are requesting that the Town Board authorize the Town Supervisor to execute this Agreement along with related documents for the above referenced project. The agreement documentation will be reviewed and approved by the Town Attorney and Staff before the document is presented to the Town Supervisor for signature.

As always, your consideration of matters such as this is greatly appreciated. A member of the DPW will be in attendance at your May 22, 2024, meeting to respond to any questions.

Respectfully,

Ken Hurley
Department of Public Works

Cc: Jim Sprague
    Rick DiStefano
    John Mancuso
STORM DRAINAGE MAINTENANCE AGREEMENT
QUICKLEE'S TWELVE CORNERS

THIS STORM DRAINAGE MAINTENANCE AGREEMENT (this “Agreement”) is made as of the 8th day of May, 2024 by and between the TOWN OF BRIGHTON (the “Town”) and 1950-1966 MONROE AVENUE, LLC, having offices at 2060 Lakeville Road, Avon, New York 14414 (“Sponsor”).

WHEREAS, Sponsor is the owner of property located at 1950 Monroe Avenue, Town of Brighton, County of Monroe, State of New York, bearing tax ID number 137.10-5-1, or any address or tax ID number subsequently assigned to the (resubdivided) property (the “Site”); and,

WHEREAS, Sponsor intends to construct a fuel station and convenience store at the Site open to the general public (the “Project”); and,

WHEREAS, Sponsor is obligated to comply with Federal, State and local regulations regarding stormwater quantity and quality mitigation, inclusive of Chapter 215, Stormwater Management of the Town Code of the Town of Brighton; and,

WHEREAS, the Town and Sponsor mutually desire to provide stormwater quantity attenuation and enhanced stormwater quality mitigation measures in conjunction with the redevelopment of the Site, specifically, the installation of onsite best management practices and a connection to the Elmwood Avenue storm drainage system (the “Improvements”); and,

WHEREAS, the proper performance of the Improvements require connection to the storm drainage system within the Elmwood Avenue right of way adjoining the Site, and the Town will allow such a connection at the expense of Sponsor; and,

WHEREAS, Sponsor will incorporate the Improvements into the scope of Site work associated with the construction of the Improvements at their sole expense; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as set forth herein, it is agreed as follows:

1. **The Improvements.** The work shall consist of installing a 12” diameter HDPE drainage pipe as the connection to the existing drainage catch basin and the existing drainage system along Elmwood Avenue and all incidental and necessary appurtenances as described within the engineering report, depicted upon the Project plans as designed by LandTech Surveying & Planning.

2. **Maintenance.** During the term of this Agreement, Sponsor shall bear all responsibility, including, but not limited to, the inspection, cleaning, flushing and all other maintenance procedures (the “Maintenance”) of the onsite treatment units necessary for the system(s) to operate in accordance with the manufacturers’ required protocol for the Improvements. At a minimum, the Maintenance shall be performed no less than once a year, between May 1st and May 31st of each year. A detailed report certifying the extent of the Maintenance procedures shall be provided to the Town Department of Public Works by June 15th of each year, prepared by a professional engineer licensed to practice in the State of New York or other professional qualified to perform such work.

3. **The Costs of Improvements.** The costs of construction and/or installation of all Improvements shall be borne by Sponsor.
4. **No Liability.** The Town shall not be responsible for any loss or damage incurred by Sponsor or its agents, tenants, employees, contractors or invitees, in connection with this Agreement. Furthermore, no language contained herein shall be construed as the Town assuming any obligations of Sponsor, relieving Sponsor of their duties associated with the inspection, operation and/or Maintenance of the system(s).

5. **Indemnity.** Sponsor shall indemnify and hold the Town harmless at all times from and after the date of this Agreement, including from all claims, damage, liability and expense, including legal fees, arising from, related to or in any way connected with the Agreement, except claims, damage, liability and expenses caused by a negligent, willful or wrongful act or omission on the part of the Town and/or any of its employees, agents or contractors.

6. **Default.** If Sponsor fails in the due performances of any of its obligations under the terms of this Agreement, the Town shall have the right to issue a notice of default in accordance with the following:

   A) After a twenty-four (24) hour period from the issuance of written, facsimile, or electronic notice for correction of an emergency Maintenance situation(s) and remedial action has not been performed to the satisfaction of the Town by Sponsor or its agent(s); and/or

   B) After a thirty (30) day period from the issuance of written or email notice for correction of routine Maintenance procedure(s) (including failure to properly perform the Maintenance) and remedial action has not been performed to the satisfaction of the Town by Sponsor or its agent(s);

In accordance with the above conditions, the Town may then issue written or email (with confirmation of receipt) notice for default and at its election, (a) cause the necessary Maintenance to be performed immediately and to add the costs thereof to the property tax bill issued to Sponsor for the Site, and/or (b) to sue for damages for such breach and to seek such legal and equitable remedies as may be available to it, including the right to recover all expenses including legal fees.

An emergency is defined as, but not necessarily limited to, a situation that presents an immediate threat to the well-being of property and/or personal health of individuals and/or the general public. Routine is defined as, but not necessarily limited to, regular Maintenance and care, recommended or otherwise, of the system(s) for its ability to operate in accordance with the intended performance parameters. Pursuant to Section 4, the Town assumes none of Sponsor’s obligations with regards to maintaining the system.

Sponsor shall provide below the name, title and contact information of the person in their employ who shall be notified in accordance with the terms and conditions of this paragraph and may be reached twenty-four hours a day. Sponsor shall be responsible to promptly inform the Town of any changes that may occur with regards to this information.

7. **Term.** The Term of this Agreement will commence upon execution by both Parties and will remain permanently in full force and effect from the date of this Agreement.

8. **Successors and Assigns.** The terms of this Agreement shall be perpetually binding upon Sponsor, their heirs, successors and all subsequent property owners. This Agreement and the obligations thereof shall not be assigned, transferred or otherwise disposed of by Sponsor.
9. **Modifications.** This document represents the full and complete agreement between the parties. No changes may be made to any of the terms of this Agreement, nor any provision revised or waived, except in writing signed by both parties.

10. **Severability.** If a court of competent jurisdiction finds any provisions of this Agreement invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated as being invalid. All other provisions of this agreement shall remain in full and separate effect.

11. **Authorization.** The undersigned represent that they are authorized to execute this Agreement on behalf of the Town or Sponsor, and that the Town and Sponsor are authorized to enter into this Agreement and perform its obligations described herein.

12. **Filing.** Sponsor shall file this document at the Monroe County Clerk’s Office upon its execution and provide a copy of the date/time stamped filed document to the Town along with the transaction receipt from the County Clerk’s Office.

13. **Counterparts.** This Agreement may be executed in counterparts, which shall be read together as a single, integrated instrument.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first set forth above.

SPONSOR:

1950-1966 MONROE AVENUE, LLC

By: PEMM, LLC
Its: Sole Member

By: ____________________________
Name: Kenneth Perelli
Title: Vice President

TOWN OF BRIGHTON:

By: ____________________________
Name: __________________________
Title: __________________________

STATE OF NEW YORK   )
COUNTY OF Livingston   ) ss.:  

On this 8th day of May, 2024, before me, the undersigned, personally appeared KENNETH PERELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Norma J. Pellegrino
Notary Public

STATE OF NEW YORK   )
COUNTY OF MONROE   ) ss.:  

On this __ day of _____________, 2024, before me, the undersigned, personally appeared WILLIAM W. MOEHLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

________________________
Notary Public
MEMORANDUM

TO: Honorable Town Board

FROM: William W. Moehle, Supervisor

DATE: May 22, 2024

RE: Proposed Local Law amending Chapter 113 of the Town Code with respect to Demonstration and Special Event Permits

During the past several Town Board meetings, we have heard from many residents expressing concern with gatherings and demonstrations in the Twelve Corners Park. In response to those concerns, and to ensure that the Brighton Police Department and Parks Department are aware of gatherings in our parks that might cause safety issues, I have asked Attorney to the Town John Mancuso, Esq., to draft a local law directing that organizers of special events and demonstrations of a certain size in our parks be required to obtain a permit for such events or demonstrations. This would ensure that the Police Department and Parks Department are aware of upcoming events and can better address safety concerns that may arise.

I would ask that the Town Board set a public hearing for June 26, 2024 to receive public comment on the proposed law. I would also suggest that the proposed law be reviewed at the Town Board Public Safety Committee meeting on June 12, 2024.
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor
CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,
Councilmembers

BE IT RESOLVED, that Local Law #___ of 2024 known as “A Local Law to amend Chapter 113 of the Code of the Town of Brighton With Respect to Demonstration and Special Event Permits,” be received and filed, and be it further

RESOLVED, that a public hearing to consider the adoption of said Local Law shall be held at the Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, County of Monroe, on June 26, 2024 at 7:00 p.m. or as soon thereafter as the matter may be heard, and be it further

RESOLVED, that the Town Clerk is hereby directed to publish and distribute such notice as is required by law for said public hearing.

Dated: May 22, 2024

William W. Moehle, Supervisor  Voting  ___
Christopher K. Werner, Councilmember  Voting  ___
Robin R. Wilt, Councilmember  Voting  ___
Christine E. Corrado, Councilmember  Voting  ___
Nathaniel V. Salzman, Councilmember  Voting  ___
LOCAL LAW NO. ___ OF 2024

A LOCAL LAW TO AMEND CHAPTER 113 OF THE CODE OF THE TOWN OF BRIGHTON WITH RESPECT TO DEMONSTRATION AND SPECIAL EVENT PERMITS

BE IT ENACTED by the Town Board of the Town of Brighton, Monroe County, New York, as follows:

Section 1. Preamble; Legislative Intent.

The right to peacefully assemble or demonstrate is afforded to all persons and is protected by the First Amendment of the United States Constitution and Article I, Sections 8 and 9 of the New York State Constitution. However, content-neutral time, place, and manner restrictions may reasonably limit free expression in order to protect a significant governmental interest. These gatherings and demonstrations, when combined with pedestrian bystanders and motor vehicles simultaneously using the area, in the absence of advance notice to the Town may obstruct and impede the flow of traffic on the public roadways and driveways at or around parks. The Town Board finds that the Town has a significant and important governmental interest in preserving public peace and good order on lands operated as public parks in the Town of Brighton and safeguarding public health, safety, and enjoyment of users of Town parkland and surrounding public property from obstruction, interference, or threats of physical harm. The Town Board further finds that it also has a significant and important governmental interest in ensuring the safety of gatherers, demonstrators, pedestrian bystanders, and motor vehicle users in high traffic areas of the Town.

The purpose of this local law is to protect the health, safety, and welfare of users of public parks and the surrounding areas by amending Chapter 113 of the Town Code of the Town of Brighton (the “Town Code”) governing parks in the Town by requiring certain demonstrations and special events to obtain a permit from the Town Commissioner of Public Works, without unreasonably restricting the expressive activity of any gatherings, demonstrations, or large assemblies of individuals, regardless of their identity or the content of their speech.

Section 2. Definitions.

Section 113-2 of Chapter 113 of the Town Code is hereby amended to add the following definitions:

“DEMONSTRATION

A group activity, including but not limited to, a meeting, assembly, protest, rally, march, or vigil which involves the expression of views or grievances, involving more than the thresholds set forth in Section 113-4(A)(3) or a group activity involving less than such thresholds for which specific space is requested to be reserved.

SPECIAL EVENT

A group activity, including but not limited to, a performance, meeting, assembly, ceremony, parade, athletic competition, reading, or picnic involving more than the thresholds set forth in Section 113-4(A)(3) or a group activity involving less than such thresholds for which specific space is requested to be reserved.”
Section 3. Permits required for certain activities; issuance of permits.

Section 113-4(A) of the town Code is hereby amended by adding the following paragraph (3):

“(3) Demonstrations or Special Events involving more than the number of people set forth in the chart below:

<table>
<thead>
<tr>
<th>Park</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meridian Centre Park</td>
<td>50</td>
</tr>
<tr>
<td>Buckland Park</td>
<td>50</td>
</tr>
<tr>
<td>Brighton Town Park</td>
<td>50</td>
</tr>
<tr>
<td>12 Corners Park</td>
<td>20</td>
</tr>
<tr>
<td>Corbett’s Glen Nature Park</td>
<td>20</td>
</tr>
<tr>
<td>Sandra L. Frankel Nature Park</td>
<td>20</td>
</tr>
<tr>
<td>Lehigh Valley Trail</td>
<td>20</td>
</tr>
<tr>
<td>Town Hall Park</td>
<td>20</td>
</tr>
<tr>
<td>Blossom Road Park</td>
<td>20</td>
</tr>
<tr>
<td>Any Town Pocket Park</td>
<td>20</td>
</tr>
<tr>
<td>Persimmon Park</td>
<td>N/A</td>
</tr>
<tr>
<td>Lynch Woods</td>
<td>N/A</td>
</tr>
<tr>
<td>Stowell Conservancy</td>
<td>N/A</td>
</tr>
</tbody>
</table>

*No Demonstration or Special Event permits may be issued for Parks designated N/A”

Section 113-4 of the Town Code is hereby amended by adding the following subsection (F):

“F. Permits for a Demonstration or Special Event.

(1) Applications for a Special Event permit must be received at least 30 days prior to the request date for the Special Event. Applications for a Demonstration permit must be received at least 5 days prior to the requested date for the demonstration. Notwithstanding the foregoing, the Commissioner of Public Works, or such other office as the Commissioner of Public Works may determine, will accept applications for Demonstrations whenever submitted and process such applications as soon as it is feasible to do so, considering the magnitude of the event and the resources of the Commissioner.

(2) Upon receipt of such application, the Commissioner of Public Works, or such other office as the Commissioner of Public Works may determine, shall refer same to the Brighton Chief of Police for review as may be necessary to ensure the protection of public health, safety, and welfare.

(3) The Commissioner of Public Works, or such other office as the Commissioner of Public Works may determine, may deny a permit if: (i) the location sought is not suitable because of environmental conditions reasonably likely to be harmed by the proposed event; (ii) the location sought is not suitable because the proposed Demonstration or Special Event is of such nature or duration that it cannot be
reasonably accommodated in the requested location; (iii) the date and/or time requested has been previously allotted by permit; (iv) the Demonstration or Special Event would conflict with previously planned programs organized and/or conducted by the Town, or conflict with the Town’s priority use field schedule maintained by the Recreation and Parks Department; (v) the Demonstration or Special Event would unreasonably interfere with the use and enjoyment of the park by other users; (vi) the intended use or activity is unlawful, or would endanger the health and safety of surrounding persons; (vii) there are not significant Town resources available at the time of the proposed Demonstration or Special Event to mitigate disruption and/or the diversion of police protection would deny reasonable police protection to the Town; (viii) if the permit application contains a material falsehood or misrepresentation; or (ix) within the preceding two years, the applicant has been granted a permit and did, on that prior occasion, knowingly violate a material term or condition of the permit, or any law, ordinance, state or regulation relating to the use of parks. Notwithstanding the foregoing, if a permit has been denied pursuant to this subparagraph (3), the Commissioner of Public Works shall employ reasonable efforts to offer the applicant suitable alternative locations and/or times and/or dates for the proposed Demonstration or Special Event.

(4) All permit applications will be processed on a “first come, first serve” basis; provided that if two or more permit applicants request the same date and the same location, and one or more of such applicants held a permit for such location in the calendar year immediately preceding the calendar year for which such permit is now sought, the permit application from the applicant who has not previously held a permit shall be first eligible for approval. Notwithstanding the foregoing, a Demonstration or Special Event proposed at any athletic field shall be at all times subject to the Town’s priority use field schedule maintained by the Recreation and Parks Department.

(5) In the event a permit application is denied, the applicant may appeal the determination by written request filed with the Town Supervisor, who may reverse, affirm, or modify the original determination and provide a written explanation of the decision. If a permit application is denied more than 10 days prior to the proposed event, the applicant shall have 3 days from the date such denial is delivered to the applicant to appeal such denial. The Town Supervisor shall render a decision on such appeal within 5 days of receipt of such appeal. If a permit application is denied less than 10 days prior to the proposed event, the applicant shall have 1 day from the date such denial is delivered to the applicant to appeal such denial. The Town Supervisor shall render a decision on such appeal as soon as is reasonably practicable.

(6) Permittees must have the Demonstration or Special Events permit in their possession at the time and site of the event.

(7) More than one Demonstration or Special Event permit may not be issued for any park for the same date and time, except for Buckland Park, Meridian Centre Park, and Brighton Town Park.
(8) No Demonstration or Special Event permit shall be issued when parks are closed under Section 113-3.

(9) The requirements of this subsection 113-4(F) shall be inapplicable to a Demonstration or Special Event proposed at a park lodge or pavilion, which shall be subject to the permitting requirements of Section 113-5.

(10) Notwithstanding subsection 113-4(E), no fees shall be charged for a Demonstration permit.”

Section 4. Certain acts prohibited without written permission

Subsection 113-6(B) of the Town Code is hereby deleted in its entirety and replaced with the following:

“B. Hold any Demonstration or Special Event; conduct any funeral procession or vehicle containing the body of a deceased person; or use any loudspeaker or other sound-amplifying equipment.”

Section 5. General regulations.

Subsection 113-7(A) of the Town Code is hereby amended by adding the following paragraph (8):

“(8) No person shall by force or threat of force, or by physically obstructing or blocking, knowingly injure, or interfere with, or attempt to injure, or interfere with, another person using a park or any walkway or sidewalk adjoining or adjacent to a park. For purposes of this paragraph, “interfere with” shall mean to stop or to restrict a person’s freedom of movement, or to stop, obstruct, or prevent, through deceptive means or otherwise.”

Section 6. No Endorsement by Town.

The enforcement of this local law by the Town shall in no way be considered an endorsement or any expression of support, disagreement or any position or opinion on behalf of the Town whatsoever with respect to the activities, policies, opinions, positions, precepts or other aspects of the individuals organizing, sponsoring, holding or participating in a demonstration.

Section 7. Conflict with Other Provisions.

When the requirements or restrictions imposed by this local law conflict with the requirements or restrictions imposed by other laws, ordinances, codes, rules or regulations, the more proscriptive requirement or restriction, respectively, shall prevail.

Section 8. Severability.

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.
Section 9. Effective Date.

This local law shall go into effect immediately upon filing with the New York State Secretary of State.
At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held on the 22nd day of May 2024 at Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, New York

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

CHRISTOPHER K. WERNER
ROBIN R. WILT
CHRISTINE E. CORRADO
NATHANIEL V. SALZMAN,

Councilmembers

BE IT RESOLVED, that Local Law #___ of 2024 known as “A Local Law for Flood Damage Prevention,” be received and filed, and be it further

RESOLVED, that a public hearing to consider the adoption of said Local Law shall be held at the Brighton Town Hall, 2300 Elmwood Avenue in the Town of Brighton, County of Monroe, on June 12, 2024 at 7:00 p.m. or as soon thereafter as the matter may be heard, and be it further

RESOLVED, that the Town Clerk is hereby directed to publish and distribute such notice as is required by law for said public hearing.

Dated: May 22, 2024

William W. Moehle, Supervisor  Voting ___
Christopher K. Werner, Councilmember  Voting ___
Robin R. Wilt, Councilmember  Voting ___
Christine E. Corrado, Councilmember  Voting ___
Nathaniel V. Salzman, Councilmember  Voting ___
A LOCAL LAW TO AMEND CHAPTER 211 OF THE CODE
OF THE TOWN OF BRIGHTON (FLOOD DAMAGE
PREVENTION)

BE IT ENACTED by the Town Board of the Town of Brighton, Monroe County, New
York, as follows:

Section 1. Authorization.

The adoption of this local law is in accordance with New York State Constitution, Article IX,
Section 2, and Environmental Conservation Law, Article 36.

Section 2. Title.

This local law shall be known as “A Local Law for Flood Damage Prevention.”

Section 3. Amendments to Chapter 211 of the Code of the Town of Brighton.

Chapter 211 (Flood Damage Prevention) of the Code of the Town of Brighton is hereby repealed
in its entirety and replaced with the following:

Chapter 211: Flood Damage Prevention

Article I
Statutory Authorization and Purpose

§211-1 Findings.

The Town Board of the Town of Brighton finds that the potential and/or actual damages from
flooding and erosion may be a problem to the residents of the Town of Brighton and that such
damages may include: destruction or loss of private and public housing, damage to public facilities,
both publicly and privately owned, and injury to and loss of human life. In order to minimize the
threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter
is adopted.

§211-2 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to
minimize public and private losses due to flood conditions in specific areas by provisions designed
to:

A. Regulate uses which are dangerous to health, safety and property due to water or
erosion hazards, or which result in damaging increases in erosion or in flood heights
or velocities.
B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

E. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

F. Qualify and maintain for participation in the National Flood Insurance Program.

§211-3 Objectives.

The objectives of this chapter are:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects.

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. Minimize prolonged business interruptions.

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G. Provide that developers are notified that property is in an area of special flood hazard.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
Article II
Definitions

§211-4 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Accessory Structure

A structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

Appeal

A request for a review of the Local Administrator's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this chapter, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

Base flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement

That portion of a building having its floor subgrade (below ground level) on all sides.

Building

See "Structure"
Cellar

The same meaning as "Basement".

Crawl Space

An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building

A non-basement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

Federal Emergency Management Agency

The Federal agency that administers the National Flood Insurance Program.

Flood or Flooding

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an
unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition above.

**Flood Boundary and Floodway Map (FBFM)**

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

**Flood Elevation Study**

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**Flood Hazard Boundary Map (FHBM)**

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study**

See "flood elevation study".

**Floodplain or Flood-prone area**

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**Floodproofing**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway**

The same meaning as "regulatory floodway".
**Functionally dependent use**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

**Highest adjacent grade**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**Historic structure**

Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   (1) By an approved state program as determined by the Secretary of the Interior; or

   (2) Directly by the Secretary of the Interior in states without approved programs.

**Local Administrator**

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**Lowest floor**

The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
**Manufactured home**

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle".

**Manufactured home park or subdivision**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean sea level**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mobile home**

The same meaning as "manufactured home".

**New construction**

Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**One-hundred-year flood or 100-year flood**

The same meaning as "Base Flood".

**Principally above ground**

At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**Recreational vehicle**

A vehicle which is:

A. Built on a single chassis;
B. Four hundred square feet or less when measured at the largest horizontal projections;
C. Designed to be self-propelled or permanently towable by a light duty truck; and
D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
Regulatory Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in §211-14B of this chapter.

Start of construction

A. The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

B. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
B. Any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as an historic structure.

**Variance**

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

**Violation**

The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.
Article III
General Provisions

§211-5 Applicability.
This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Brighton.

§211-6 Basis for establishing the areas of special flood hazard.

A. The areas of special flood hazard for the Town of Brighton, Community Number 361163 are identified and defined on the following documents prepared by the Federal Emergency Management Agency.


(2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York (All Jurisdictions)," dated July 31, 2024.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Town Offices, Town of Brighton.

§211-7 Interpretation and conflict with other laws.

A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§211-8 Severability
The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
§211-9 Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Brighton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§211-10 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Brighton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.
Article IV
Administration

§211-11 Designation of the local administrator.

The Commissioner of Public Works or his or her designee is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§211-12 Floodplain development permit.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in §211-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of $200.00. In addition, the applicant shall be responsible for reimbursing the Town of Brighton for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit to cover these additional costs.

§211-13 Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved residential structure to be located in a special flood hazard area. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved non-residential structure to be located in Zones A1-A30, AE, or AH or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

D. A certificate (Federal Emergency Management Agency Elevation Certificate) from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in §211-16C, Utilities.

E. A certificate (Federal Emergency Management Agency Elevation Certificate) from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in §211-18, Nonresidential structures.

F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in §211-6, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

G. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

§211-14 Duties and responsibilities of the local administrator.

Duties of the Local Administrator shall include, but not be limited to the following:

A. Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

   (1) Review all applications for completeness, particularly with the requirements of §211-13, Application for a permit, and for compliance with the provisions and standards of this chapter.

   (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area
of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction standards and, in particular, §211-15A, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

(4) If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(5) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community’s Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to §211-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

(3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in §211-6, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

C. Alteration of watercourses

(1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction stage

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

E. Inspections. The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop work orders.

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in §211-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed,
converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter. The basis for the local administrator’s determination shall be supporting documentation provided and certified by the applicant’s licensed professional engineer/licensed surveyor.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in §211-14E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The Local Administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance.

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to §211-14D(1) and (2), and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to §211-14D(1), and whether or not the structures contain a basement.

(4) Variances issued pursuant to Article VI, Variance procedures.

(5) Notices required under §211-14C, Alteration of watercourses.
Article V
Construction Standards

§211-15 General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location, or,

(b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in §211-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment
shall not result in any increase in flood levels during occurrence of the base flood, or,

(b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revisions. The Town of Brighton may require the establishment of an escrow account or letter of credit in a sufficient amount to be held until such time that the application is complete and the final cost can be determined.

(3) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Brighton shall as soon as practicable, but not later than six (6) months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

§211-16 Standards for all structures.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.
(a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] a minimum of two (2) openings of each enclosed area having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

[2] the bottom of all such openings no higher than one (1) foot above the lowest adjacent finished grade and;

[3] openings not less than three (3) inches in any direction.

(b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two (2) feet above the base flood elevation, at least three (3) feet above the highest adjacent grade in a Zone A without an available base flood elevation where permitted, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations.

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
D. Storage tanks.

(1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.

(2) Above-ground tanks shall be:

   (a) Anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;

   (b) Installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet.

§211-17 Residential structures.

A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16 Standards for all structures.

(1) Within Special Flood Hazard Areas, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two (2) feet above the base flood elevation.

(2) Within Zone A, if the Base flood elevation is not specified, a base flood elevation shall be determined by either of the following:

   (a) Obtain and reasonably use data available from a federal, state or other source plus two (2) feet of freeboard or:

   (b) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices, plus freeboard. Determinations shall be undertaken by a registered design professional who shall be documented that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet of freeboard, or not less than three (3) feet if a depth number is not specified.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
§211-18 Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16, Standards for all structures.

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:

1. Have the lowest floor, including basement or cellar, elevated to or above two (2) feet above the base flood elevation; or

2. Be floodproofed so that the structure is watertight below two (2) feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of non-residential structures shall:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two (2) feet (at least three (3) feet if no depth number is specified), or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in §211-18A(2)

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of §211-18A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.
§211-19  Manufactured homes and recreational vehicles.

The following standards in addition to the standards in §211-15, General standards, and §211-16, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(a) Be on site fewer than 180 consecutive days,

(b) Be fully licensed and ready for highway use, or

(c) Meet the requirements for manufactured homes in §211-19B, C, and D.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH and Zone A shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two (2) feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in §211-6 plus two feet (at least three (3) feet if no depth number is specified).

D. The foundation and anchorage of manufactured homes to be located in identified floodways shall be designed and constructed in accordance with §211-16A, Anchoring.

§211-20  Accessory structures including detached garages.

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A. The accessory structure must meet the definition of structure, for floodplain management purposes, provided in 44 CFR § 59.1, where walled and roofed shall be interpreted as having two outside rigid walls and a fully secured roof.

B. The accessory structure should be small, as defined by the community and approved by FEMA, and represent a minimal investment. Accessory structures of
any size may be considered for a variance; however, FEMA considers accessory structures that meet the following criteria to be small and therefore not necessarily in need of a variance, if the community chooses to allow it:

(1) Located in an A Zone (A, AE, A1-A30, AR, A99) and less than or equal to the size of a one-story, two-car garage.

C. Accessory structures must meet the standards of §211-16A, Anchoring.

D. The portions of the accessory structure located below BFE plus two (2) feet of freeboard must be constructed with flood-resistant materials.

E. Mechanical and utility equipment for the accessory structure must be elevated or dry floodproofed to or above BFE plus two (2) feet of freeboard.

F. Within Zones AO and Zone A, if base flood elevation data are not available, areas below three (3) feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.

G. The accessory structure must comply with the floodway encroachment provisions of the NFIP.

H. The accessory structure must be wet floodproofed to protect the structure from hydrostatic pressure. The design must meet the NFIP design and performance standards for openings per 44 CFR § 60.3(c)(5) and must allow for the automatic entry and exit of floodwaters without manual operation or the presence of a person (or persons).
Article VI
Variance Procedure

§211-21 Appeals board.

A. The Zoning Board of Appeals as established by the Town of Brighton shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

   (1) The danger that materials may be swept onto other lands to the injury of others.

   (2) The danger to life and property due to flooding or erosion damage.

   (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

   (4) The importance of the services provided by the proposed facility to the community.

   (5) The necessity to the facility of a waterfront location, where applicable.

   (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

   (7) The compatibility of the proposed use with existing and anticipated development.

   (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

   (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

   (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

(12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

E. Upon consideration of the factors of §211-21D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§211-22 Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in §211-21D(1) through (12) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria of subparagraphs §211-22A, D, E, and F of this Section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon receiving written justification of:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in §211-14H of this chapter.

Section 4. Conflict with Other Provisions.

When the requirements or restrictions imposed by this local law conflict with the requirements or restrictions imposed by other laws, ordinances, codes, rules or regulations, the more proscriptive requirement or restriction, respectively, shall prevail.

Section 5. Severability.

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

Section 6. Effective Date.

This local law shall go into effect immediately upon filing with the New York State Secretary of State.
May 20, 2024

The Honorable Town of Brighton Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York 14618

Re: Town of Brighton Town Code Revision
Chapter 211 - Flood Damage Protection

Dear Supervisor Moehle and Town Board Members:

In a letter sent out on January 31, 2024, the Federal Emergency Management Agency (FEMA) provided notification to the Town of Brighton (addressed to Supervisor Moehle) of changes to the existing flood hazard determination for Monroe County (All Jurisdictions). As required by the National Flood Insurance Program (NFIP), the Town of Brighton must enact a legally enforceable document which includes adoption of the current effective FIS report and Flood Insurance Rate Map (FIRM) mapping to which the regulations apply. New FRIMs establishing Base Flood Elevations for the Town of Brighton have been recently completed by FEMA and will become effective July 31, 2024.

FEMA has prepared a Local Law template and I have filled in the appropriate Town applicable data and submitted it to John Mancuso for his review. This new Local Law template is very similar to the previous Local Law (current Chapter 211) that was adopted by the Town Board on July 23, 2008. Upon verification from Mr. Mancuso, we will need to submit a copy to the NYSDEC for review. The deadline to adopt the Local Law is July 1, 2024.

I am requesting that the Town Board initiate the review and approval process for the revised Chapter 211 – Flood Damage Protection (Local Law) and open a public hearing. Upon review by the Town Attorney and draft review determination of the Local Law by the NYSDEC, the Town Board would be able to close the hearing and adopt the revised code at their discretion.

As always, thank you for your consideration. A member for the DPW will be in attendance at your regularly scheduled May 22, 2024, meeting in the event that you have any questions regarding this matter. As always, your consideration of matters such as this is greatly appreciated.

Sincerely,

Ken Hurley, P.E.
Department of Public Works

Cc: Jim Sprague
CERTIFIED MAIL
RETURN RECEIPT REQUESTED
IN REPLY REFER TO:
19P

The Honorable William Moehle
Supervisor, Town of Brighton
2300 Elmwood Avenue
Rochester, New York 14618

Community Name: Town of Brighton,
Monroe County,
New York
Community No.: 360410
Map Panels Affected: See FIRM Index

January 31, 2024

Dear Supervisor Moehle:

This is to notify you of the final flood hazard determination for Monroe County, New York (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the Federal Register.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security’s Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed. FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the Federal Register as soon as possible. The FIS report and FIRM for your community will become effective on July 31, 2024. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3 (d) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already
have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3 (d);

2. Adopting all the standards of 44 CFR Part 60.3 (d) into one new, comprehensive set of regulations; or

3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3 (d).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3 (d) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA’s resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes,
insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at https://www.msc.fema.gov. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Kelli Higgins-Roche, P.E., CFM, NFIP State Coordinator for New York by telephone at (518) 402-8185 or by email at floodplain@dec.ny.gov. If you should require any additional information, we suggest that you contact the Director, Mitigation Division of FEMA, Region 2 at (212) 680-3600 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at https://www.fema.gov/flood-maps. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,

[signature]

Luis V. Rodriguez, P.E.,
Director, Engineering and Modeling Division
Risk Management Directorate | Resilience

Enclosure:
Final SOMA

cc: Community Map Repository
    Rick Distefano, Senior Planner, Town of Brighton
FINAL SUMMARY OF MAP ACTIONS

Community: BRIGHTON, TOWN OF  Community No: 360410

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 17, 2024.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

<table>
<thead>
<tr>
<th>LOMC</th>
<th>Case No.</th>
<th>Date Issued</th>
<th>Project Identifier</th>
<th>Original Panel</th>
<th>Current Panel</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td>NO CASES RECORDED</td>
<td></td>
</tr>
</tbody>
</table>

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

2A. LOMCs on Revised Panels

<table>
<thead>
<tr>
<th>LOMC</th>
<th>Case No.</th>
<th>Date Issued</th>
<th>Project Identifier</th>
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<th>Current Panel</th>
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</thead>
<tbody>
<tr>
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<td></td>
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<td>NO CASES RECORDED</td>
<td></td>
</tr>
</tbody>
</table>
# FINAL SUMMARY OF MAP ACTIONS

Community: BRIGHTON, TOWN OF  
Community No: 360410

## 2B. LOMCs on Unrevised Panels

<table>
<thead>
<tr>
<th>LOMC</th>
<th>Case No.</th>
<th>Date Issued</th>
<th>Project Identifier</th>
<th>Original Panel</th>
<th>Current Panel</th>
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</thead>
<tbody>
<tr>
<td>LOMA</td>
<td>93-02-420A</td>
<td>01/25/1993</td>
<td>FRENCH CREEK TOWNHOUSES, BUILDINGS J &amp; K</td>
<td>3604100010B</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>98-02-406A</td>
<td>04/29/1998</td>
<td>17 EDGEWOOD AVENUE</td>
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<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>01-02-1200A</td>
<td>08/15/2001</td>
<td>PART OF LOT 7, HARTWOOD SUBDIVISION--96 STONYBROOK DRIVE</td>
<td>3604100010B</td>
<td>36055C0356G</td>
</tr>
<tr>
<td>LOMA</td>
<td>02-02-1330A</td>
<td>07/17/2002</td>
<td>74 CHELMSFORD ROAD</td>
<td>3604100010B</td>
<td>36055C0218G</td>
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<tr>
<td>LOMA</td>
<td>02-02-1956A</td>
<td>11/27/2002</td>
<td>86 STONYBROOK DRIVE</td>
<td>3604100010B</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>03-02-2004A</td>
<td>01/15/2004</td>
<td>LOT 2, ADAMS CORNERS SUBDIVISION--66 GLEN ROAD</td>
<td>3604100010B</td>
<td>36055C0219G</td>
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<tr>
<td>LOMA</td>
<td>04-02-1458A</td>
<td>10/07/2004</td>
<td>LOTS 1 &amp; PART OF 2, HARTWOOD TRACT - 36 STONYBROOK DRIVE</td>
<td>3604100010B</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>06-02-B499A</td>
<td>07/12/2006</td>
<td>1086 CRITTENDEN ROAD</td>
<td>3604100005B</td>
<td>36055C0332G</td>
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<tr>
<td>LOMA</td>
<td>06-02-B505A</td>
<td>07/25/2006</td>
<td>Lot 5, Bahr Subdivision, Section 1 -- 110 CRITTENDEN ROAD</td>
<td>3604100005B</td>
<td>36055C0332G</td>
</tr>
<tr>
<td>LOMA</td>
<td>07-02-0458A</td>
<td>04/10/2007</td>
<td>CHARLESON ESTATES RE-SUBDIV, LOT R-10 -- 169 LEDGEROCK LANE</td>
<td>3604100010B</td>
<td>36055C0218G</td>
</tr>
<tr>
<td>LOMR-FW</td>
<td>08-02-0012A</td>
<td>11/29/2007</td>
<td>MEADOW VIEW SUBDIV, LOT 16 -- 77 FAIRFIELD DRIVE</td>
<td>3604100010B</td>
<td>36055C0352G</td>
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<tr>
<td>LOMA</td>
<td>08-02-0279A</td>
<td>12/03/2007</td>
<td>Lot 43, Westfall Heights Subdivision - 95 Helen Road</td>
<td>3604100005B</td>
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<tr>
<td>LOMA</td>
<td>08-02-0112A</td>
<td>12/18/2007</td>
<td>1870 SOUTH WINTON ROAD</td>
<td>3604100010B</td>
<td>36055C0352G</td>
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<tr>
<td>LOMR-FW</td>
<td>08-02-1562A</td>
<td>10/16/2008</td>
<td>1575 CLOVER STREET</td>
<td>36055C0218G</td>
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<tr>
<td>LOMR-FW</td>
<td>10-02-0765A</td>
<td>04/26/2010</td>
<td>LOT 8, ROBY SUBDIVISION, SECTION 1 -- 44 ROBY DRIVE</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
</tr>
</tbody>
</table>
### FINAL SUMMARY OF MAP ACTIONS

**Community:** BRIGHTON, TOWN OF  
**Community No:** 360410

<table>
<thead>
<tr>
<th>LOMC</th>
<th>Case No.</th>
<th>Date Issued</th>
<th>Project Identifier</th>
<th>Original Panel</th>
<th>Current Panel</th>
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</thead>
<tbody>
<tr>
<td>LOMA</td>
<td>12-02-0267A</td>
<td>12/30/2011</td>
<td>LOT R3, CAMBRIDGE PLACE CORPORATE CENTRE -- 1880 SOUTH WINTON ROAD</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
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<tr>
<td>LOMR-FW</td>
<td>12-02-0684A</td>
<td>04/03/2012</td>
<td>LOT 32, SECTION 1, ROBY -- 61 ROBY DRIVE</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
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<tr>
<td>LOMA</td>
<td>13-02-0438A</td>
<td>01/17/2013</td>
<td>Lot W, Hartwood Tract Subdivision - 115 Stonybrook Drive</td>
<td>36055C0356G</td>
<td>36055C0356G</td>
</tr>
<tr>
<td>LOMA</td>
<td>14-02-0119A</td>
<td>11/26/2013</td>
<td>MacFarlan Farms Additions No. 1, Lot 1 -- 2958 Elmwood Avenue</td>
<td>36055C0218G</td>
<td>36055C0218G</td>
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<tr>
<td>LOMA</td>
<td>14-02-1369A</td>
<td>05/29/2014</td>
<td>MACFARLANE FARMS NO. 2 ADDITION, LOT 59 -- 2 CHELMSFORD LANE</td>
<td>36055C0218G</td>
<td>36055C0218G</td>
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<tr>
<td>LOMR-F</td>
<td>14-02-1548A</td>
<td>06/12/2014</td>
<td>MACFARLAN FARMS, ADDITION NO. 1, LOT 50 - 2894 ELMWOOD AVENUE</td>
<td>36055C0218G</td>
<td>36055C0218G</td>
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<tr>
<td>LOMA</td>
<td>15-02-0795A</td>
<td>03/02/2015</td>
<td>Lot 174A, Rowlands Tract Subdivision - 2134 Westfall Road</td>
<td>36055C0356G</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>15-02-1429A</td>
<td>06/17/2015</td>
<td>Lot 49, Block 137.17-3-48, Horst Subdivision - 1863 Westfall Road</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
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<tr>
<td>LOMA</td>
<td>15-02-1219A</td>
<td>07/02/2015</td>
<td>Lot 12, Hartwood Tract Subdivision - 85 Stonybrook Drive</td>
<td>36055C0356G</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>15-02-1679A</td>
<td>07/31/2015</td>
<td>Lot 180, Riverside Gardens Subdivision - 27 Remington Parkway</td>
<td>36055C0331G</td>
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<tr>
<td>LOMA</td>
<td>15-02-1743A</td>
<td>09/15/2015</td>
<td>ROWLANDS, LOT 173 -- 2142 WESTFALL ROAD</td>
<td>36055C0356G</td>
<td>36055C0356G</td>
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<tr>
<td>LOMA</td>
<td>16-02-0364A</td>
<td>11/23/2015</td>
<td>Lot 116, Horst Subdivision Subdivision - 119 Fairhill Drive</td>
<td>36055C0352G</td>
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<tr>
<td>LOMA</td>
<td>16-02-0758A</td>
<td>03/04/2016</td>
<td>MEADOWBROOK, LOTS 268 &amp; 269 -- 207 BONNIE BRAE AVENUE</td>
<td>36055C0214G</td>
<td>36055C0214G</td>
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<tr>
<td>LOMA</td>
<td>16-02-0757A</td>
<td>03/25/2016</td>
<td>MEADOWBROOK, LOT 259 -- 200 BONNIE BRAE AVENUE</td>
<td>36055C0214G</td>
<td>36055C0214G</td>
</tr>
<tr>
<td>LOMR-F</td>
<td>16-02-1512A</td>
<td>09/21/2016</td>
<td>EVANS FARM, LOT 9 -- 1915 WESTFALL ROAD</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
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<tr>
<td>LOMA</td>
<td>17-02-1848A</td>
<td>07/24/2017</td>
<td>Lot RA-3-1, Vail Subdivision - 100 Park Circle East</td>
<td>36055C0332G</td>
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</tr>
</tbody>
</table>
# FINAL SUMMARY OF MAP ACTIONS

**Community:** BRIGHTON, TOWN OF  
**Community No:** 360410

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<tr>
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<th>Original Panel</th>
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</thead>
<tbody>
<tr>
<td>LOMA</td>
<td>17-02-2157A</td>
<td>09/11/2017</td>
<td>Lot 51, MacFarlan Farms Addition No. 1 Subdivision - 2892 Elmwood Avenue</td>
<td>36055C0218G</td>
<td>36055C0218G</td>
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<tr>
<td>LOMA</td>
<td>18-02-0870A</td>
<td>04/09/2018</td>
<td>MACFARLAN FARMS TRACT, ADDITION NO. 2, LOT 65 -- 90 CHELMSFORD ROAD</td>
<td>36055C0218G</td>
<td>36055C0218G</td>
</tr>
<tr>
<td>LOMR-FW</td>
<td>18-02-1078A</td>
<td>05/07/2018</td>
<td>TOWNSHIP 13 RANGE 7, SECOND DIVISION, LOT 14 -- 66 EDGEWOOD AVENUE</td>
<td>36055C0356G</td>
<td>36055C0356G</td>
</tr>
<tr>
<td>LOMR-FW</td>
<td>18-02-1453A</td>
<td>06/25/2018</td>
<td>MEADOWBROOK, LOTS 270 &amp; 271 -- 217 BONNIE BRAE AVENUE</td>
<td>36055C0352G</td>
<td>36055C0352G</td>
</tr>
<tr>
<td>LOMA</td>
<td>21-02-0037A</td>
<td>11/12/2020</td>
<td>RULISON-SHAFFER SUBDIVISION, LOT 1 -- 3437 ELMIWOOD AVENUE</td>
<td>36055C0218G</td>
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<tr>
<td>LOMA</td>
<td>22-02-0676A</td>
<td>06/27/2022</td>
<td>MEADOW VIEW, SECTION 1, LOT 38 -- 90 FAIRFIELD DRIVE</td>
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<td>LOMA</td>
<td>23-02-0303A</td>
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<td>36055C0356G</td>
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</tr>
</tbody>
</table>

## 3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

<table>
<thead>
<tr>
<th>LOMC</th>
<th>Case No.</th>
<th>Date Issued</th>
<th>Project Identifier</th>
<th>Reason Determination Will be Superseded</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>NO CASES RECORDED</td>
<td></td>
</tr>
</tbody>
</table>

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.
4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

<table>
<thead>
<tr>
<th>LOMC</th>
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<td>NO CASESRecorded</td>
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</tr>
</tbody>
</table>
Chapter 211
Flood Damage Prevention

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

[HISTORY: Adopted by the Town Board of the Town of Brighton xx-xx-xxxx by L.L. No. xxxxx

Article I
Statutory Authorization and Purpose

§211-1 Findings.

The Town Board of the Town of Brighton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Brighton and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§211-2 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

B Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

D Control filling, grading, dredging and other development which may increase erosion or flood damages.

E Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

F Qualify and maintain for participation in the National Flood Insurance Program.

§211-3 Objectives.

The objectives of this chapter are:
A   Protect human life and health;

B   Minimize expenditure of public money for costly flood control projects.

C   Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D   Minimize prolonged business interruptions.

E   Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.

F   Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G   Provide that developers are notified that property is in an area of special flood hazard.

H   Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
Article II
Definitions

§211-4 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give
them the meaning they have in common usage and to give this chapter its most reasonable application.

Accessory Structure

A structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a
minimal investment of not more than 10 percent of the value of the primary structure, and may not be
used for human habitation.

Appeal

A request for a review of the Local Administrator's interpretation of any provision of this chapter or a
request for a variance.

Area of shallow flooding

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one
percent or greater annual chance of flooding to an average annual depth of one to three feet where a
clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity
flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in
any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-
V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this
chapter, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area
of special flood hazard.”

Base flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement

That portion of a building having its floor subgrade (below ground level) on all sides.

Building

See "Structure"

Cellar

The same meaning as "Basement".
Crawl Space

An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building

A non-basement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

Federal Emergency Management Agency

The Federal agency that administers the National Flood Insurance Program.

Flood or Flooding

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition above.
**Flood Boundary and Floodway Map (FBFM)**

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

**Flood Elevation Study**

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**Flood Hazard Boundary Map (FHBM)**

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study**

See "flood elevation study".

**Floodplain or Flood-prone area**

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**Floodproofing**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway**

The same meaning as "regulatory floodway".

**Functionally dependent use**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.
**Highest adjacent grade**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**Historic structure**

Any structure that is:

A Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

**Local Administrator**

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**Lowest floor**

The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**Manufactured home**

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle"

**Manufactured home park or subdivision**
A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean sea level**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mobile home**

The same meaning as "manufactured home".

**New construction**

Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**One-hundred-year flood or 100-year flood**

The same meaning as "Base Flood".

**Principally above ground**

At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**Recreational vehicle**

A vehicle which is:

A  Built on a single chassis;

B  Four hundred square feet or less when measured at the largest horizontal projections;

C  Designed to be self-propelled or permanently towable by a light duty truck; and

D  Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in §211-14B of this chapter.

**Start of construction**
A The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

B Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

A Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B Any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as an historic structure.

Variance

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

Violation
The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.
Article III
General Provisions

§211-5  Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Brighton.

§211-6  Basis for establishing the areas of special flood hazard.

A The areas of special flood hazard for the Town of Brighton, Community Number 361163 are identified and defined on the following documents prepared by the Federal Emergency Management Agency.


(2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York (All Jurisdictions)," dated July 31, 2024.

B The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Town Offices, Town of Brighton.

§211-7  Interpretation and conflict with other laws.

A This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§211-8  Severability

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

§211-9  Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this
chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Brighton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§211-10 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Brighton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.
Article IV
Administration

§211-11 Designation of the local administrator.

The Commissioner of Public Works or his or her designee is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§211–12 Floodplain development permit.

A Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in §211-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B Fees. All applications for a floodplain development permit shall be accompanied by an application fee of $200.00. In addition, the applicant shall be responsible for reimbursing the Town of Brighton for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit to cover these additional costs.

§211-13 Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

A The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved residential structure to be located in a special flood hazard area. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved non-residential structure to be located in Zones A1-A30, AE, or AH or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

C The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the
floodproofed portion of the structure, the permittee shall submit to the Local Administrator
the as-built floodproofed elevation, certified by a professional engineer or surveyor.

D A certificate (Federal Emergency Management Agency Elevation Certificate) from a
licensed professional engineer or architect that any utility floodproofing will meet the
criteria in §211-16C, Utilities.

E A certificate (Federal Emergency Management Agency Elevation Certificate) from a
licensed professional engineer or architect that any non-residential floodproofed structure
will meet the floodproofing criteria in §211-18, Nonresidential structures.

F A description of the extent to which any watercourse will be altered or relocated as a result
of proposed development. Computations by a licensed professional engineer must be
submitted that demonstrate that the altered or relocated segment will provide equal or
greater conveyance than the original stream segment. The applicant must submit any maps,
computations or other material required by the Federal Emergency Management Agency
(FEMA) to revise the documents enumerated in §211-6, when notified by the Local
Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The
applicant must also provide assurances that the conveyance capacity of the altered or
relocated stream segment will be maintained.

G A technical analysis, by a licensed professional engineer, if required by the Local
Administrator, which shows whether proposed development to be located in an area of
special flood hazard may result in physical damage to any other property.

H In Zone A, when no base flood elevation data are available from other sources, base flood
elevation data shall be provided by the permit applicant for subdivision proposals and other
proposed developments (including proposals for manufactured home and recreational
vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

§211-14 Duties and responsibilities of the local administrator.

Duties of the Local Administrator shall include, but not be limited to the following:

A Permit application review. The Local Administrator shall conduct the following
permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of §211-
13, Application for a permit, and for compliance with the provisions and standards of
this chapter.

(2) Review subdivision and other proposed new development, including manufactured
home parks to determine whether proposed building sites will be reasonably safe from
flooding. If a proposed building site is located in an area of special flood hazard, all
new construction and substantial improvements shall meet the applicable standards of
Article V, Construction standards and, in particular, §211-15A, Subdivision proposals.
(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

(4) If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(5) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

B Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to §211-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

(3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in §211-6, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

C Alteration of watercourses

(1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D Construction stage
(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

E Inspections. The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F Stop work orders.

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in §211-9 of this chapter.

G Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in §211-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter. The basis for the local administrator’s determination shall be supporting documentation provided and certified by the applicant’s licensed professional engineer/licensed surveyor.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in §211-14E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H Information to be retained. The Local Administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance.

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to §211-14D(1) and (2), and whether or not the structures contain a basement.

(3) Floodproofing certificates required pursuant to §211-14D(1), and whether or not the structures contain a basement.

(4) Variances issued pursuant to Article VI, Variance procedures.

(5) Notices required under §211-14C, Alteration of watercourses.
Article V  
Construction Standards

§211-15 General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

   (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location, or,

   (b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in §211-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

   (a) A technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
(b) The Town of Brighton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Brighton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Brighton for all costs related to the final map revisions. The Town of Brighton may require the establishment of an escrow account or letter of credit in a sufficient amount to be held until such time that the application is complete and the final cost can be determined.

(3) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Brighton shall as soon as practicable, but not later than six (6) months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

§211-16 Standards for all structures.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B Construction materials and methods.

(l) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.

(a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
[1] a minimum of two (2) openings of each enclosed area having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

[2] the bottom of all such openings no higher than one (1) foot above the lowest adjacent finished grade and;

[3] openings not less than three (3) inches in any direction.

(b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two (2) feet above the base flood elevation, at least three (3) feet above the highest adjacent grade in a Zone A without an available base flood elevation where permitted, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations.

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D Storage tanks.

(1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.

(2) Above-ground tanks shall be:

   (a) Anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;
(b) Installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet.

§211-17 Residential structures.

A  Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16 Standards for all structures.

(1) Within Special Flood Hazard Areas, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two (2) feet above the base flood elevation.

(2) Within Zone A, if the Base flood elevation is not specified, a base flood elevation shall be determined by either of the following:

   (a) Obtain and reasonably use data available from a federal, state or other source plus two (2) feet of freeboard or:

   (b) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering practices, plus freeboard. Determinations shall be undertaken by a registered design professional who shall be documented that the technical methods used reflect currently accepted engineering practice. Studies, analyses, and computations shall be submitted in sufficient detail to allow thorough review and approval.

(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in §211-6 plus two (2) feet of freeboard, or not less than three (3) feet if a depth number is not specified.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§211-18 Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in §211-15A, Subdivision proposals, and §211-15B, Encroachments, and §211-16, Standards for all structures.

A  Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
(1) Have the lowest floor, including basement or cellar, elevated to or above two (2) feet above the base flood elevation; or

(2) Be floodproofed so that the structure is watertight below two (2) feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two (2) feet (at least three (3) feet if no depth number is specified), or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in §211-18A(2).

C If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of §211-18A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

E Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.

§211-19 Manufactured homes and recreational vehicles.

The following standards in addition to the standards in §211-15, General standards, and §211-16, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(a) Be on site fewer than 180 consecutive days,

(b) Be fully licensed and ready for highway use, or

(c) Meet the requirements for manufactured homes in §211-19B, C, and D.
(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH and Zone A shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two (2) feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in §211-6 plus two feet (at least three (3) feet if no depth number is specified).

D The foundation and anchorage of manufactured homes to be located in identified floodways shall be designed and constructed in accordance with §211-16A, Anchoring.

§211-20 Accessory structures including detached garages.

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in §211-6.

A The accessory structure must meet the definition of structure, for floodplain management purposes, provided in 44 CFR § 59.1, where walled and roofed shall be interpreted as having two outside rigid walls and a fully secured roof.

B The accessory structure should be small, as defined by the community and approved by FEMA, and represent a minimal investment. Accessory structures of any size may be considered for a variance; however, FEMA considers accessory structures that meet the following criteria to be small and therefore not necessarily in need of a variance, if the community chooses to allow it:

(1) Located in an A Zone (A, AE, A1-A30, AR, A99) and less than or equal to the size of a one-story, two-car garage.

C Accessory structures must meet the standards of §211-16A, Anchoring,

D The portions of the accessory structure located below BFE plus two (2) feet of freeboard must be constructed with flood-resistant materials.

E Mechanical and utility equipment for the accessory structure must be elevated or dry floodproofed to or above BFE plus two (2) feet of freeboard.

F Within Zones AO and Zone A, if base flood elevation data are not available, areas below three (3) feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.
G  The accessory structure must comply with the floodway encroachment provisions of the NFIP.

H  The accessory structure must be wet floodproofed to protect the structure from hydrostatic pressure. The design must meet the NFIP design and performance standards for openings per 44 CFR § 60.3(c)(5) and must allow for the automatic entry and exit of floodwaters without manual operation or the presence of a person (or persons).
Article VI
Variance Procedure

§211-21 Appeals board.

A The Zoning Board of Appeals as established by the Town of Brighton shall hear and decide appeals and requests for variances from the requirements of this chapter.

B The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.

C Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

   (1) The danger that materials may be swept onto other lands to the injury of others.

   (2) The danger to life and property due to flooding or erosion damage.

   (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

   (4) The importance of the services provided by the proposed facility to the community.

   (5) The necessity to the facility of a waterfront location, where applicable.

   (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

   (7) The compatibility of the proposed use with existing and anticipated development.

   (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

   (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

   (10) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

   (11) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

   (12) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
E Upon consideration of the factors of §211-21D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§211-22 Conditions for variances.

A Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in §211-21D(1) through (12) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1) The criteria of subparagraphs §211-22A, D, E, and F of this Section are met; and
2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F Variances shall only be issued upon receiving written justification of:

1) A showing of good and sufficient cause;
2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in §211-14H of this chapter.

COMMENT ---- Our current code ends with the following that is not included in the provided model law. This new Model law added a same titled header as §211-8 Severability........ I’m not sure if we can have two different parts in the same Chapter with the same label or if it’s OK, since they are in different Articles. Please mark up as appropriate.

§211-23 Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
MATTERS OF THE SUPERVISOR