

A Regular Meeting of the Town Board, Town of Babylon, was held at the Town Hall, 200 East Sunrise Highway, Lindenhurst, NY, and streamed live over the internet at the Town of Babylon YouTube channel - <https://bit.ly/3aNSG2P>, on Wednesday, the 1st day of February, 2023 at 3:00 p.m. prevailing time.

*Supervisor Schaffer called the meeting to order with a salute to the flag.*

*Supervisor Schaffer: Please remain standing for a moment of silence and I'd ask you keeping your thoughts and prayers the brave servicemen and women serving our country both here and abroad.*

*Thank you, please be seated.*

**The Town Clerk called the roll:**

Councilman Manetta	Present
Councilman Martinez	Present
Councilman McSweeney	Present
Councilman Gregory	Present
Supervisor Schaffer	Present

1. **PUBLIC HEARING IN REFERENCE TO AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTER 99 (COASTAL EROSION HAZARD AREAS) ARTICLE IV (VARIANCES AND APPEALS)**
2. **PUBLIC HEARING IN REFERENCE TO AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTER 106 (DOGS AND OTHER ANIMALS)**

## **VI. CONSENSUS RESOLUTION AGENDA Wednesday, February 1, 2023 at 3:00 P.M.**

### **RESOLUTION NO. 87 FEBRUARY 1, 2023 ACCEPTING TOWN BOARD MINUTES**

BE IT RESOLVED, by the Town Board of the Town of Babylon that the minutes of the following Town Board Meeting be and the same are hereby accepted:

January 18, 2023

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

### **RESOLUTION NO. 88 FEBRUARY 1, 2023 AUTHORIZING 2022 BUDGET MODIFICATION**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon the recommendation of the Town Comptroller, that the following 2022 Budget Modification is hereby authorized:

	<b>Increase</b>	<b>Decrease</b>
<b>General Fund</b>		
<b>Tax Collector</b>		
Overtime		
A.1330-19	\$ 4,568	
Program Operations		
A.1330-47	\$ 42,000	
Part Time Labor		
A.1330-17		\$ 4,568
Professional and Technical Services		
A.1330-44		\$ 30,000
Miscellaneous		
A.1330-49		\$ 12,000
<b>Part Town Fund</b>		
<b>Public Safety Administration</b>		
Equipment		
B.3010-20	\$ 21,050	
Professional and Technical Services		
B.3010-44		\$ 1,350
Rent of Lease		
B.3010-45		\$ 4,700
<b>Fire Prevention</b>		
Full Time Labor		
B.3410-15		\$ 10,000
<b>Code Enforcement</b>		
Full Time Labor		
B.3989-15		\$ 5,000

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 89 FEBRUARY 1, 2023  
AUTHORIZING 2023 BUDGET MODIFICATION**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon the recommendation of the Town Comptroller, that the following 2023 Budget Modification is hereby authorized:

	<u>Increase</u>	<u>Decrease</u>
<b>General Fund</b>		
<b>Supervisor</b>		
Elected officials		
A.1220-10	\$ 5,000	
Council Member		
A.1220-11	\$ 5,000	
<b>Assessment</b>		
Overtime		
A.1355-19		\$ 10,000
<b>Other Health</b>		
Administrative		
A.4989-13	\$ 50,031	
Full time labor		
A.4989-15		\$ 50,031

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 90 FEBRUARY 1, 2023  
AUTHORIZING 2022 INTERFUND TRANSFER**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon the recommendation of the Town Comptroller that the following 2022 Interfund Transfer is hereby authorized:

	<u>Increase</u>	<u>Decrease</u>
<b>H14 American Rescue Plan Act Capital Projects</b>		
<b>Transfer to Capital Project Fund</b>		
<b>Interfund Transfer</b>		
H14.0000-5031	\$ 613,538.14	
<b>Genl gvt, equipment and Capital Outlay</b>		
H14-7197.30	\$ 613,538.14	
<b>H11 Various Parks Improvements</b>		
<b>Transfer to Capital Project Fund</b>		
<b>Interfund Transfer</b>		
H11-9950.90	\$ 613,538.14	
<b>Genl gvt, equipment and Capital Outlay</b>		
H11-1977.26		\$ 613,538.14

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 91 FEBRUARY 1, 2023  
AUTHORIZING PAYMENT TO PACE ANALYTICAL SERVICES INCORPORATED**

BE IT RESOLVED, by the Town Board of the Town of Babylon, based upon the recommendation of the Town Attorney, that the Comptroller is hereby authorized to issue payment to Pace Analytical Services Incorporated for services rendered for the following Invoice:

INVOICE NO.	AMOUNT
2370033492	\$2,638.98
2370033899	\$379.00
2370033900	\$320.00

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 92 FEBRUARY 1, 2023  
AUTHORIZING RELEASE OF BOND**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon the recommendation of the Commissioner of Planning and Development, that the following be released from the Town Trust, as the requirement for the recording of Declaration of Covenants and Restrictions has been satisfied;

PAYEE	SCTM NO.	APPLICATION/PERMIT #/JOB #	AMOUNT DUE
669 Sunrise Highway, LLC. 185 Secatogue Lane West West Islip, New York 11795 Attn: Ryan Laflare	SCTM # 0100-158-2-68,69, &70	Planning Board Job: 22-16A	\$750.00
R&M Engineering c/o Chris Robinson 50 Elm Street, Huntington, New York 11743	SCTM # 0100-68-1-46.001	Application Number: 139368  Planning Board Job: 21-43AFD	\$750.00
95 East Booker Corp. 229 West 21 <sup>st</sup> Street, Deer Park, New York 11729	SCTM # 0100-41-3-9	Zoning Board Case Number: 22-125	\$750.00

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 93 FEBRAURY 1, 2023  
ACCEPTING A DONATION**

WHEREAS, with the support of the Town Board of the Town of Babylon, the Town of Babylon Department of Environmental Control (TOBDEC) has been addressing pollutants associated with stormwater runoff which includes floatable debris such as plastic bottles and other plastic and litter that may enter the Town's valuable watersheds/the South Shore Estuary Reserve (SSER); and  
WHEREAS, plastic debris may take hundreds or even thousands of years to decompose in the natural environment and may pose a hazard to aquatic and terrestrial life; and

WHEREAS, the Town of Babylon has identified the headwaters the Neguntatogue Creek Lindenhurst as a prime location to address floatables that may impact the environmental resources of the Town of Babylon and Village of Lindenhurst; and  
WHEREAS, the Town of Babylon has determined that the Village of Lindenhurst would be a partner of mutual benefit to improve the environmental resources of the Town of Babylon and Village of Lindenhurst; and

WHEREAS the following several entities have agreed to fund a Stormwater Systems Bandalong Bandit Litter Device to be installed by the Town of Babylon at Neguntatogue Creek Lindenhurst.

NOW, THEREFORE,

BE IT RESOLVED, by the Town Board of the Town of Babylon, that the following donations are accepted with gratitude:

DONATOR	ITEM AND VALUE	RECOMMENDED BY	USE
Gino Macchio Foundation PO Box 1239, West Babylon, NY 11704 and Clean and Green Recycling 1110 Route 109 Lindenhurst, NY 11757 Continued	\$10,000  (\$5000+\$5000)	TOBDEC	Floatables Control Neguntatogue Creek
Covanta 600 Merchants Concourse, Westbury, NY 11590	\$6750	TOBDEC	Floatables Control Neguntatogue Creek
NV5 40 Marcus Drive, Suite 201, Melville, NY 11747	\$1000	TOBDEC	Floatables Control Neguntatogue Creek
Pioneer Landscaping and Asphalt, Inc, 168 Townline Road, Kings Park, NY 11754	\$9000	TOBDEC	Floatables Control Neguntatogue Creek
Cameron Engineering, 177 Crossways Park Drive, Woodbury, NY 11797	\$2300	TOBDEC	Floatables Control Neguntatogue Creek
Total	\$29,050		

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 94 FEBRUARY 1, 2023**

**AUTHORIZING THE ASSIGNMENT OF BID NO. 22G15- PURCHASE OF ORIGINAL GM PARTS FROM EAGLE AUTO MALL SALES, INCORPORATED D/B/A EAGLE CHEVROLET TO DCO MOTORS EACLE C LLC D/B/A EAGLE CHEVROLET OF RIVERHEAD**

BE IT RESOLVED, by the Town Board of the Town of Babylon, that the Supervisor be and he hereby is authorized to execute an agreement on behalf of the Town of Babylon for BID No. 22G15 with Eagle Auto Mall Sales, Inc. d/b/a Eagle Chevrolet. Consenting to the assignment of all right, title and interest in contracts currently between the Town of Babylon and Eagle Auto Mall Sales, Inc. d/b/a Eagle Chevrolet to DCO Motors Eagle C LLC d/b/a Eagle Chevrolet of Riverhead; and

BE IT RESOLVED that the agreement be subject to the approval of the Town Attorney as to form and content.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 95 FEBRUARY 1, 2023**

**AWARDING BID NO. 23G01  
ARTS & CRAFTS CATALOGS AND/OR WEBSITES**

WHEREAS, the following bids for Bid No. 23G01, Arts & Crafts Catalogs and/or Websites were received, opened and publicly read:

<b>BIDDER</b>	<b>CATALOG BID</b>	<b>BID%</b>
<b>S &amp; S Worldwide, Inc.</b>	<b>S &amp; S Worldwide, Inc.</b>	<b>-21.0%</b>
Blick Art Materials	Blick	-10%
<b>Lakeshore Learning Materials</b>	<b>Lakeshore Learning</b>	<b>-7.5%</b>
<b>BIDDER</b>	<b>WEBSITE BID</b>	<b>BID%</b>
<b>S &amp; S Worldwide, Inc.</b>	<b>www.ssw.com</b>	<b>-21.0%</b>
Blick Art Materials	no bid	
<b>Lakeshore Learning Materials</b>	<b>www.LakeshoreLearning.com</b>	<b>-7.5%</b>

WHEREAS, the Commissioner of General Services recommends that Blick Art Materials be excluded from Bid No. 23G01, in its entirety as they are charging freight, contrary to the bidding specifications.

NOW THEREFORE be it;

RESOLVED, that based upon the recommendation of the Commissioner of General Services, that Blick Art Materials be and is hereby excluded from Bid No. 23G01, in its entirety as they are not complying with the bidding specifications; and be it further

RESOLVED, that based upon the recommendation of the Commissioner of General Services and upon her finding the aforementioned bids to be fair and reasonable, Bid No. 23G01 be and is hereby awarded to the bidders offering the highest discount per catalog, Lakeshore Learning Materials and S & S Worldwide, Inc.; and be it further

RESOLVED, that the Supervisor be and he is hereby authorized to execute one (1) year contracts with Lakeshore Learning Materials and S & S Worldwide, Inc. and that the form and content of said contracts shall be subject to the approval of the Town Attorney; and be it further

RESOLVED, that said contracts may be extended for two (2) additional one (1) year periods at the discretion of the Commissioner of General Services.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 96 FEBRUARY 1, 2023  
AWARDING BID NO. 23G02  
250 BUSHELS SPAWNER STOCK CLAMS**

WHEREAS, the following bids for Bid No. 23G02 - 250 Bushels Spawner Stock Clams were received, opened and publicly read:

<u>Item</u>	<u>Vendor</u>	<u>Price</u>
1) Spawner Stock Clams Price per bushel delivered	<b>Captree Clam Co., Inc.</b>	<b>\$40.00</b>

RESOLVED, that based upon the recommendation of the Commissioner of General Services and the Commissioner of Environmental Control and upon their finding the aforementioned bids to be fair and reasonable, Bid No. 23G02 be and is hereby awarded to the sole bidder, Captree Clam Company, Inc.; and be it further

RESOLVED, that the Supervisor be and he is hereby authorized to execute a one (1) year contract with Captree Clam Company, Inc., and that the form and content of said contract shall be subject to the approval of the Town Attorney; and be it further

RESOLVED, that said contracts may be extended for two (2) additional one (1) year periods at the discretion of the Commissioner of General Services.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 97 FEBRUARY 1, 2023  
AWARDING BID NO. 23G03 INTERACTIVE POOL COMPONENTS, GROUND SPRAYS,  
STRUCTURES, PLATFORMS, THEMING, AQUATIC RECREATION COMPANY, LLC OR EQUAL**

WHEREAS, the following bids for Bid No. 23G03, Interactive Pool Components, Ground Sprays, Structures, Platforms, Theming, Aquatic Recreation Company, LLC or Equal were received, opened and publicly read:

Item 1: Interactive Pool Components, Ground Sprays, Structures, Platforms, Theming, Aquatic Recreation Company, LLC or Equal

<u>BIDDER</u>	<u>CATALOG BID</u>	<u>BID%</u>
<b>Landscape Structures, Inc.</b>	<b>Aquatix by Landscape Structure Aquatix Mechanics and Design</b>	<b>4% 0%</b>

NOW THEREFORE be it;

RESOLVED, that based upon the recommendation of the Commissioner of Park and Recreation and the Commissioner of General Services and upon their finding the aforementioned bids to be fair and reasonable, Bid No. 23G03 be and is hereby awarded to the sole bidder offering the highest discount, Landscape Structures, Inc.; and be it further

RESOLVED, that the Supervisor be and he is hereby authorized to execute one (1) year contract with Landscape Structures, Inc. and that the form and content of said contract shall be subject to the approval of the Town Attorney; and be it further

RESOLVED, that said contracts may be extended for two (2) additional one (1) year periods at the discretion of the Commissioner of General Services.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 98 FEBRUARY 1, 2023  
AWARDING BID NO. 23G06  
BUILDING MATERIALS AND SUPPLIES**

WHEREAS, the following bids for Bid No. 23G06- Building Materials and Supplies were received, opened and publicly read:

<u>Item</u>	<u>Vendor</u>	<u>Price</u>
1. Percent Discount In-Store	<b>Bellmore Home Center Inc. d/b/a Costello's Ace Hardware</b>	
2. Percent Discount Special Order		<b>10%</b>
3. Percent Discount Website		<b>10%</b>

RESOLVED, that based upon the recommendation of the Commissioner of General Services and the Commissioner of the Department of Public Works and upon their finding the aforementioned bids to be fair and reasonable, Bid No. 23G06 be and is hereby awarded to the sole bidder, Bellmore Home Center Inc., d/b/a Costello's Ace Hardware; and be it further

RESOLVED, that the Supervisor be and he is hereby authorized to execute a one (1) year contract with, Bellmore Home Center Inc., d/b/a Costello's Ace Hardware and that the form and content of said contract shall be subject to the approval of the Town Attorney; and be it further

RESOLVED, that said contracts may be extended for two (2) additional one (1) year periods at the discretion of the Commissioner of General Services

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 99 FEBRUARY 1, 2023  
AWARDING BID NO. 23G08 INDUSTRIAL AND COMMERCIAL SUPPLIES**

WHEREAS, the following bids for Bid No. 23G08 - Industrial and Commercial Supplies were received, opened and publicly read:

**SPREADSHEET ON FILE IN THE DEPARTMENT OF GENERAL SERVICES**

RESOLVED, that based upon the recommendation of the Commissioner of General Services and the Commissioner of the Department of Public Works and upon their finding the aforementioned bids to be fair and reasonable, Bid No. 23G08 be and is hereby awarded to the, Bellmore Home Center Inc., d/b/a Costello's Ace Hardware, and Sid Tool., Inc. d/b/a MSC Industrial Supply Co. and be it further

RESOLVED, that the Supervisor be and he is hereby authorized to execute one (1) year contracts with, Bellmore Home Center Inc., d/b/a Costello's Ace Hardware, and d/b/a MSC Industrial Supply Co. and that the form and content of said contract shall be subject to the approval of the Town Attorney, and be it further

RESOLVED, that said contracts may be extended for two (2) additional one (1) year periods at the discretion of the Commissioner of General Services

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 100 FEBRUARY 1, 2023**  
**AUTHORIZING A CONTRACT WITH 3M TRANSPORTATION SAFETY DIVISION**

WHEREAS, a proposal was solicited from 3M Transportation Safety Division for hosting and maintenance of the 3M Sign Management System; and

WHEREAS, the Professional Consultant Evaluation Committee convened on January 18, 2023, with the Chief of Staff, Deputy Chief of Staff, Town Attorney, Comptroller, the Commissioner of General Services, and Commissioner of Department of Public Works in attendance to review the aforementioned proposal; and

WHEREAS, after a thorough review of the proposal, the Committee recommends awarding a contract to 3M Transportation Safety Division for hosting and maintenance of the 3M Sign Management System at the for a total contract amount not to exceed SEVEN THOUSAND, FIVE HUNDRED (\$7,500.00) DOLLARS for the period of March 2, 2023 through March 1, 2024.

NOW, THEREFORE, be it

RESOLVED, that based upon the recommendation of the Professional Consultant Evaluation Committee, the Supervisor be and he is hereby authorized to execute a contract 3M Sign Management System at the for a total contract amount not to exceed SEVEN THOUSAND, FIVE HUNDRED (\$7,500.00) DOLLARS for the period of March 2, 2023, through March 1, 2024; and be it further

RESOLVED that said contract shall be subject to the approval of the Town Attorney as to form and content.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 101 FEBRUARY 1, 2023**  
**AUTHORIZING A CONTRACT WITH GENTILE, BRENGLE & LIN, LLP (“GBL”)**

WHEREAS, a proposal was solicited from the following firms for Risk Assessment and Management Endpoint Solutions,

PROPOSER	TOTAL PRICE
<b>Gentile, Brengle &amp; Lin, LLP (“GBL”)</b>	<b>\$34,400.00</b>
VirtuIT Systems	\$80,442.92
Cloud First	\$224,200.00

WHEREAS, the Professional Consultant Evaluation Committee convened on January 18, 2023, with the Chief of Staff, Deputy Chief of Staff, Town Attorney, Comptroller, the Commissioner of General Services, and Commissioner of Department of Public Works in attendance to review the aforementioned proposal; and

WHEREAS, after a thorough review of the proposal, the Committee recommends awarding a contract to GBL for a total contract amount not to exceed THIRTY FOUR THOUSAND, FOUR HUNDRED (\$34,400.00) DOLLARS.

NOW, THEREFORE, be it

RESOLVED, that based upon the recommendation of the Professional Consultant Evaluation Committee, the Supervisor be hereby authorized to execute a contract to GBL for a total contract amount not to exceed THIRTY FOUR THOUSAND, FOUR HUNDRED (\$34,400.00) DOLLARS; and be it further

RESOLVED that said contract shall be subject to the approval of the Town Attorney as to form and content.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 102 FEBRUARY 1, 2023**  
**AUTHORIZING A CONTRACT WITH GRACE INDUSTRIES, LLC**

WHEREAS, a Request for Quotes was solicited from the following firms for Reinforced Soil Wall Monitoring, and Miscellaneous Engineering Services at the Landfill; and

**PROPOSER**

**Item No. 1** Establishment of Fixed Point Control Bench Marks, Quantity 6,  
Reinforced Soil Wall Monitoring, Quantity 3, Aerial Photographs, Quantity 5, and  
Volumetric Calculation of Remaining Airspace, Quantity 3 – TOTAL LUMP SUM

<b>Grace Industries, LLC</b>	<b>\$30,850.00</b>
Posillico Civil	\$50,290.00
Kosuri Engineering	No Quote
Liro Group	No Quote, and

WHEREAS, the Professional Consultant Evaluation Committee convened on January 18, 2023, with the Chief of Staff, Deputy Chief of Staff, Town Attorney, Comptroller, the Commissioner of General Services, and Commissioner of Department of Public Works in attendance to review the aforementioned proposals; and

WHEREAS, after a thorough review of the proposal, the Committee recommends awarding a contract to Grace Industries, LLC for a total contract amount of THIRTY THOUSAND, EIGHT HUNDRED AND FIFTY (\$30,850.00) DOLLARS, for initial Reinforced Soil Wall Monitoring and Miscellaneous Engineering Services.

NOW, THEREFORE, be it

RESOLVED, that based upon the recommendation of the Professional Consultant Evaluation Committee, the Supervisor be and he is hereby authorized to execute a contract with Grace Industries, LLC, not to exceed THIRTY THOUSAND, EIGHT HUNDRED FIFTY (\$30,850.00) DOLLARS; and be it further

RESOLVED that said contract shall be subject to the approval of the Town Attorney as to form and content; and be it further

RESOLVED, that said contract may be extended for two (2) additional one (1) year periods for the following unit prices only, at the discretion of the Commissioner of Environmental Control:

Reinforced Soil Wall Monitoring \$3,650.00 each  
Aerial Photographs, \$80.00 per flyover  
Volumetric Calculation of Remaining Airspace, \$2,000 Each

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 103 FEBRUARY 1, 2023**  
**AUTHORIZING THE EXECUTION OF AN INTER-MUNICIPAL AGREEMENT BETWEEN THE TOWN OF BABYLON AND THE VILLAGE OF LINDENHURST FOR STORMWATER MANAGEMENT AT NEGUNTATOGUE CREEK, LINDENHURST, NY**

WHEREAS, the Town Board of the Town of Babylon has been supporting the Town of Babylon Department of Environmental Control (TOBDEC) in addressing pollutants associated with stormwater runoff which includes floatable debris such as plastic bottles and other plastic and litter that may enter the Town's valuable watersheds/the South Shore Estuary Reserve (SSER); and

WHEREAS, plastic debris may take hundreds or even thousands of years to decompose in the natural environment and may pose a hazard to aquatic and terrestrial life; and

WHEREAS, the Town of Babylon has identified the headwaters the Neguntatogue Creek Lindenhurst as a prime location to address floatables that may impact the environmental resources of the Town of Babylon and Village of Lindenhurst; and

WHEREAS, the Town of Babylon has determined that the Village of Lindenhurst would be a partner of mutual benefit to improve the environmental resources of the Town of Babylon and Village of Lindenhurst; and

WHEREAS the following entities have agreed to fund a Stormwater Systems Bandalong Bandit Litter Device to be installed by the Town of Babylon at Neguntatogue Creek Lindenhurst:

Gino Macchio Foundation PO Box 1239, West Babylon, NY 11704  
Clean and Green Recycling 1110 Route 109 Lindenhurst, NY 11757  
Covanta 600 Merchants Concourse, Westbury, NY 11590  
NV5 40 Marcus Drive, Suite 201, Melville, NY 11747  
Pioneer Landscaping and Asphalt, Inc, 168 Townline Road, Kings Park, NY 11754  
Cameron Engineering, 177 Crossways Park Drive, Woodbury, NY 11797

WHEREAS, the Town of Babylon Department of Environmental Control will install a Stormwater Systems Bandalong Bandit at Neguntatogue Creek, Lindenhurst; and

WHEREAS, the Village of Lindenhurst will be responsible for the following in connection with this installation of the Bandit:

- Clean the unit on a regular basis,
- Provide the Town of Babylon Department of Environmental Control with monthly totals of floatables recovered,
- Bear cost and responsibility for any repairs,
- Create an Educational Message on the Village Web Site.

WHEREAS, the Town of Babylon desires to enter into an inter-municipal agreement with the Village of Lindenhurst for Stormwater Management at Neguntatogue Creek, Lindenhurst, NY; and

WHEREAS, the Town of Babylon is authorized to enter into an inter-municipal agreement with the Village of Lindenhurst pursuant to Article 5-G of the General Municipal Law.

NOW, THEREFORE, be it

BE IT RESOLVED, by the Town Board of the Town of Babylon that the Supervisor be and he hereby is authorized, but not mandated, to execute an inter-municipal agreement between the Town of Babylon and the Village of Lindenhurst for Stormwater Management at Neguntatogue Creek, Lindenhurst, NY; and be it further

RESOLVED, that the form and content of said inter-municipal agreement shall be subject to the approval of the Town Attorney.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 104 FEBRUARY 1, 2023**  
**APPROVING THE SUCCESSOR COLLECTIVE BARGAINING AGREEMENT WITH THE TOWN OF BABYLON LIFEGUARD ASSOCIATION WITH THE TOWN OF BABYLON**

WHEREAS, Representatives of the Town of Babylon (the "Town") and the Town of Babylon Lifeguard Association (the "Lifeguards") have met in good faith and negotiated a collective bargaining agreement, effective February 1, 2023, through January 31, 2029; and

WHEREAS, the wage agreement provides for compensation adjustments and other changes from the existing Collective Bargaining Agreement with the Lifeguards.

NOW THEREFORE, BASED ON THESE FINDINGS, THE TOWN RESOLVES AS FOLLOWS:

Section 1: The Collective Bargaining Agreement with Lifeguards shall be approved by the Town Attorney as to form.

Section 2: The Town Supervisor is authorized to execute the Collective Bargaining Agreement approved in Section 1.

Section 3: This resolution is effective immediately upon passage.

BE IT FURTHER RESOLVED, that the Town Board, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(6)(26), and (33) of the Title 6 of the New York Code of Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County council of Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution; and be it further

RESOLVED, that this resolution shall take effect immediately.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 105 FEBRUARY 1, 2023**  
**AMENDING THE TOWN OF BABYLON EMPLOYEE ALCOHOL AND DRUG TESTING POLICY**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon recommendation of the Town Attorney, that the Town of Babylon Employee Alcohol and Drug Testing Policy attached hereto, is hereby adopted as amended.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**I. Those affected by this policy:**

All employees of the Town of Babylon are subject to drug and alcohol testing during the course of their employment and are covered under this policy. Random drug testing shall apply only to employees who have a commercial driver's license (CDL). This includes employees covered under a collective bargaining agreement or administrative employees covered under Chapter 47 of the Town Code of the Town of Babylon. Should an employee be suspected of illegal drug or excessive alcohol use as demonstrated by their job performance and has been observed by a trained supervisor, such employee must be referred to the Designated Employer Representative, Judith Garrick, for a reasonable suspicion test. This includes an employee who is suspected of abusing prescription drugs and has manifested behavioral problems that indicate such behavior may be dangerous to him/herself or those the employee works with. In addition, the following employees are subject to mandatory random drug testing:

Employees who hold a C.D.L. (Commercial Driver's License) and regularly drive Town vehicles by virtue of their permanent Civil Service title.

An employee who does not regularly drive and holds a C.D.L. and wishes to be considered for out of title work in driving positions in which a C.D.L. is required. Any employee who is in a safety sensitive position.

**II. Questions About This policy**

Any employee subject to this policy who has questions regarding it should contact Judith Garrick, Personnel Officer, the Town of Babylon's Designated Employee Representative at (631) 957-3151.

### **III. Omnibus Transportation Employee Testing Act (OTETA)**

OTETA requires employers with 50 or more employees to conduct alcohol and drug testing under the following circumstances:

- 1) **Promotion**  
Applies to employees who are promoted to positions wherein they will be required to have a CDL. That is, upon such promotion they will be subject to random drug testing
- 2) **Post Accident**  
An accident involving a Town vehicle driven by a Town employee shall require the employee to be tested for both drugs and alcohol. Such testing should be within a prescribed time as follows: Alcohol testing should be performed within two hours of an accident and controlled substance testing should be performed within thirty two hours of an accident. No employee is exempt from this mandate and an employee who deliberately circumvents or refuses to comply with this requirement shall be deemed to have a positive drug test and shall be subject to disciplinary action. As soon as possible thereafter, disciplinary charges shall be filed against such employee. If it is determined that the non-compliance was not deliberate on the employee's part, the employee shall be temporarily removed from their permanent position and paid at an appropriate rate of pay in a lower title until the employee has complied with the mandate.
- 3) **Random**  
In accordance with the Omnibus Transportation Act and the FMCSA, employees in safety sensitive positions or who hold a CDL are subject to random testing as follows: Alcohol testing is to be performed annually on ten percent of subject employees. Drug testing is to be performed on fifty percent of subject employees. A subject employee is one who is covered under this policy. Testing will be unannounced and performed throughout the year. Employees who are to be drug tested will be randomly selected by computer. Random testing for alcohol may be conducted just prior to, during, or immediately after the performance of any driving function.
- 4) **Reasonable Suspicion**  
The employer's determination that reasonable suspicion exists that would require an employee to undergo an alcohol or controlled substance test, must be based on specific observations concerning the appearance, behavior, speech or body odors of the employee by a properly trained supervisor: Commissioner, Deputy Commissioner, or a trained designee;  
  
**Documentation of Reasonable Suspicion**  
If the trained supervisor or designee finds that the available facts objectively indicate that reasonable suspicion exists and a test of the employee would yield a positive result for the misuse of alcohol or the use of prohibited drugs and as soon as possible after an order to test is given, shall document the facts contributing to and forming the basis for the reasonable suspicion. These facts shall include a description of the employee's appearance, behavior and speech. The names of witnesses to the employee's appearance, behavior and speech and who were present at the time of the incident in which reasonable suspicion arose. If the employee's behavior, appearance or speech is not the basis for testing, then the facts used to support a determination of reasonable suspicion and the source of information must be reported in writing to the Town Attorney's Office, the department head and the Designated Employer Representative, by the supervisor who observed the employee's behavior at the time of the incident.
- 5) **Reporting to Work Under the Influence of Alcohol**  
If an employee who has reported to work and has failed an alcohol test, (alcohol concentration .02 but less than 0.04) such employee may not return to duty in a driver's position, in a safety sensitive position or their regular duties for a period of twenty four hours. Consequences of reporting to work under the influence of alcohol with a concentration of .04 or above are as prescribed in Section VI of this policy. In addition, the employee will be referred to a substance abuse professional (SAP) for evaluation and may be referred to the Town's EAP for a program of rehabilitation, which the employee must complete and thereafter be subject to no less than six unannounced follow-up tests over the next twelve months. An employee reporting for drug or alcohol testing at the direction of the employer, or to provide a urine or breath sample shall be paid his/her regular salary. Such time, including travel time to and from the collection site shall be considered as time worked. However, under no circumstances shall an employee so engaged, receive overtime for time spent after regular working hours at a testing site or otherwise engaged in the testing process. The maximum such employee may be paid is his/her regular days' pay.
- 6) **Reporting to Work Under the Influence of Drugs**  
An employee who is found to be under the influence of a controlled substance while at work whether by random testing or testing under reasonable suspicion and the test proves to be positive, such employee may be immediately suspended and the employee shall be referred to an SAP or EAP, depending on their license status. Consequences of reporting to work under the influence of drugs are as prescribed in section VI of this policy.

### **IV. Refusal to Submit**

Pursuant to the regulations of the New York State Department of Transportation, a refusal to submit to required testing shall be treated the same as if the employee tests positive. Refusal is also defined as failure to provide adequate breath for testing without a valid medical reason. Failure to provide adequate urine for controlled substance testing without a valid medical reason. Any other conduct which clearly obstructs the testing process, including failure to remain readily available for post-accident testing absent legitimate medical reasons. Refusal to take or participate in a required part of the testing process shall be treated as if the employee had a positive test result. Consequences of refusal are as prescribed in section VI of this policy.

### **V. Prohibitive Behavior**

All employees subject to this policy are prohibited from the following:

- a. Reporting to work with an alcohol concentration of .02 percent or above.
- b. Employees who are on a standby or call in status may not consume alcoholic beverages while on such status, nor utilize illegal drugs, or abuse prescription drugs at any time; whether on or off duty.
- c. An employee who is on his/her regularly scheduled off hours and who has been drinking and has an alcohol concentration of .02 percent or above, or who has used a controlled substance is prohibited to respond to a call in for overtime. When called he/she must tell the dispatcher that they are unavailable due to personal reasons. Such employee shall not be subject to disciplinary action.
- d. Should an employee ignore this policy and instead reports for work, he/she shall be subject to disciplinary action, shall not be allowed to work and shall be sent home.

Additional prohibitive behavior is: possession of alcohol during regular working hours. Imbibing in alcohol four hours prior to reporting to work. Use of alcohol within eight hours following an accident where a post accident test is required, or the use of alcohol before such test. Refusal to submit to testing for either substance: alcohol or drugs.

Reporting to work or remaining on duty when an employee has used any controlled substance, except if such drug was used pursuant to instructions from a physician who has advised the employer in writing, that use of such prescribed drug will not adversely affect the employee's ability to operate a vehicle or perform his/her regularly assigned work.

### **VI. Consequences**

Some of the consequences for violation of this policy have been previously discussed in earlier sections. Section VI will better define and explain the penalties all employees are subject to should they be found in non-compliance with policy mandates.

#### **A) Employees Who Refuse to Submit to Drug or Alcohol Testing**

Any employee who refuses to be tested at any time over the course of his/her employment with the Town, whether it be for random testing or due to reasonable suspicion, shall be deemed to have tested positive and require the employee to be removed from his/her regular duties and may be subject to immediate suspension, during which disciplinary charges shall be drawn against the employee. Disciplinary action may result in a fine not to exceed \$100.00 dollars, a reprimand, suspension and/or permanent demotion or termination of employment with the Town of Babylon.

**B) Employees Who Fail a Drug Test**

- 1) An employee who fails a drug test shall be immediately removed from his/her driver's position or regular duties and be assigned as a laborer at a laborers rate of pay for no less than thirty days, or if a non OTETA employee, removed from their regular duties. Such employees shall be subject to disciplinary charges which may result in a fine not to exceed \$100.00, a reprimand, suspension, permanent demotion or dismissal from service.
- 2) The employee shall be referred to a SAP or EAP depending on license and must complete the SAP's or EAP recommendations, complete the return to work process and engage in follow up testing. Upon the employee having a negative result of a return to duty urine test and *only* after the employee has complied with all directives, may such employee resume his/her regular duties including driving, providing the SAP or EAP has cleared the employee to do so. Satisfactory completion of the treatment program is mandatory, as well as submission by the employee of no less than six random follow up drug screens over the next twelve months.
- 3) Should the employee fail any subsequent drug tests or does not satisfactorily complete a treatment program he/she shall be immediately suspended upon which disciplinary charges shall be filed which may result in a fine not to exceed \$100.00 dollars, a reprimand, suspension or dismissal from service without further consideration for rehabilitation. Except for employee refusal and those actions mandated by law, penalties prescribed by this section shall be applied on a case by case basis as other considerations may come into play and affect any outcome. IE. Length of sobriety, or how long employee was drug free at time of relapse, employee's work record, any other mitigating circumstances.

**C) Employees Who Fail Alcohol Testing**

- 1) A BAT (Breath Alcohol Technician) shall conduct a breathalyzer procedure. If the employee tests .02 but less than .04, and/or it is found that the employee has been drinking during regular working hours, the employee shall be subject to disciplinary action, whereby he/she will be subject to a fine not to exceed \$100.00 dollars, a reprimand, suspension and/or demotion. If the employee is not covered by OTETA, and depending on the circumstances, the employee may be suspended and face disciplinary action if the employee has been found drinking during regular working hours. In either case the employee may be suspended; whether OTETA or non OTETA and directed to immediately leave the work site.
- 2) The employee shall be subject to additional alcohol screening within a six month period. If a reading of .04 or above is observed he/she shall be immediately removed from their regular duties and depending on circumstances be subject to immediate suspension and disciplinary action, be subject to a fine not to exceed \$100.00 dollars, a reprimand, suspension, demotion and/or termination of Town employment without consideration for rehabilitation.

If any employee wishes to seek assistance for a substance or alcohol abuse problem, they may contact the EAP Coordinator, Delores Bocklet at 631-422-7676 or The Town's EAP outside contract service provider, LECSA, at 631-851-1295 or the Town's Drug and Alcohol Counseling Program, Beacon Family Wellness Center at 631-422-7676. Federal Law requires that any communications you make with these service providers remain confidential unless you give express permission to disclose personal information through a written consent to release confidential information.

**D) All employees who have been reassigned, suspended or disciplined due to substance or alcohol abuse may not be reinstated to their permanent positions until the employee has:**

- 1) Been evaluated by a Substance Abuse Professional (SAP)
- 2) Satisfactorily completed any requirement for rehabilitation set forth by the Town and SAP.
- 3) Successfully pass a return to duty screening for either alcohol or drugs and thereafter be subject to at least six unannounced follow up tests during the next twelve months.

**VII. Training**

Training by professional trainers will be provided to all supervisors and employees. Manuals and other technical literature will be distributed which will discuss methods used by the laboratory to conduct tests as well as risks associated with substance abuse. Supervisors will be trained to determine the appropriate circumstances for conducting reasonable suspicion tests.

As referenced to in Section III, paragraph 4 of this policy, reasonable suspicion is based on specific observations of a trained supervisor and is based on an employee's behavior characteristics.

Such characteristics associated with substance abuse and for which an employee may be directed to undergo a drug or alcohol test for reasonable suspicion are as follows:

- Abrupt changes in quality of work or output
- Unusual flare ups or outbreaks of temper
- Withdrawal from responsibility
- General overall changes in attitude
- Deterioration of physical appearance or grooming
- Wearing of sunglasses at inappropriate times (to hide dilated or constricted pupils)
- Association with known substance abusers
- Excessive borrowing
- Furtive or overt behavior
- Breath odor
- Difficulty focusing
- Glazed appearance of eyes
- Uncharacteristic behavior such as passive or combative
- Unexplained frequent accidents
- Flushed skin
- Blackouts
- Odor similar to burnt rope on clothing or skin
- Slurred or accelerated speech

**VIII. Procedures for Testing**

**Drugs**

- 1) When an employee reports to a collection site he/she will be requested to produce a photo identification. A town representative will be on site or called to the site to identify any employee who does not have the proper identification. Failure to appear at the scheduled time for a drug or alcohol test may be construed as a refusal to submit and shall be deemed to be a positive test result which may subject an employee to disciplinary actions as prescribed by section VI, paragraph A of this policy.
- 2) Outer garments and personal belongings shall be removed and placed in a secure location in order to avoid concealment of items or substances which could be used to contaminate a specimen.
- 3) Urine Collection: The employee will be given a sealed specimen kit and instructed to provide a urine specimen in the privacy of a restroom designated and prepared for collection procedures in accordance with DOT regulations. With the exception of the actual collection of a specimen, a certified technician shall remain in the Presence of the employee at all times.



The employee must provide at least 45 mL of urine or be advised by the technician that more is required. The employee shall be required to remain at the collection site for a reasonable amount of time until enough urine is collected. If the employee is unable to provide a sufficient amount of urine, the employee may be directed by the Town representative to remain at the site until such time as he/she is able to provide an adequate amount of urine for the specimen. A separate container shall be utilized if a second attempt is required.

Immediately after collection, the technician shall in the presence of the employee record temperature of the specimen using the attached temperature strip on the collection container. The time from urination to temperature measurement shall not exceed four (4) minutes. A specimen temperature outside the range of ninety (90) to one hundred (100) degrees shall be reasonable suspicion of adulteration or substitution and the technician shall ask the employee if he/she would consent to taking an oral temperature. If the employee refuses to take an oral temperature the session shall end and such refusal shall be treated as a positive result. If the employee agrees and the oral temperature does not match that of the urine temperature, a second specimen must be collected under direct observation and both samples will be sent to the laboratory. A visual inspection will be made by the technician to assess the color and identify any contaminants.

Any unusual color or appearance resulting from the inspection shall be documented on the chain of custody form. Color and appearance are both significant when assessing the specimen. If the urine specimen is of a non-urine color (green, blue etc.) the specimen will be sent to the laboratory for analysis. The technician shall pour 30ml into one container (the primary specimen) and 15ml into a second container (the split specimen) and forward both to the laboratory.

The employee and technician will keep any urine specimen in view and in their possession at all times prior to it's being sealed and labeled. The employee will be directed to observe transfer and placement of labels to and on all containers utilized in the procedure and the tamper proof identification seal will be completed and affixed to the specimen container and the employee will initial the seal.

The identifying information shall be entered onto the chain of custody form and the employee and technician shall both sign the form. The technician will continue to complete all required data on the chain of custody form and instruct the employee to read and sign the appropriate sections. The specimen will be placed in a securely sealed specimen box and the tape used to seal the box with, initialed and dated by the technician.

Specimens will be shipped, mailed or delivered to the laboratory within 24 hours of collection.

#### **Alcohol**

- 1) This section is similar to Section VIII, paragraph 1.
- 2) A certified breath alcohol technician (BAT) will ask the employee if they have eaten, drank or used mouth wash in the fifteen (15) minutes prior to the test. If the employee states he/she has and the BAT believes that what the employee ingested could contain alcohol, the employee will wait fifteen (15) minutes prior to the commencement of the test.
- 3) The BAT shall describe the procedure to the employee and then conduct the test in accordance with the procedures and protocols as specified by 49 CFR part 40 and the EBT manufacturer's instructions.
- 4) When the results are printed, the BAT shall separate the three parts of the form. And distribute the copies as follows:
  - One to the employee.
  - One to be forwarded to the employer or department head.
  - One to be retained by the BAT.

A breath test that yields a positive of .02 or higher, shall result in the BAT being required to perform another test. There shall be a fifteen (15) minute wait prior to the second test being performed.

After the required fifteen minute wait the BAT shall again test the employee. If this test is positive, the BAT shall advise the employee that he/she has screened and been confirmed positive for alcohol. The BAT shall immediately advise the Town representative in a confidential manner that the employee has tested positive. After testing and the employee has been confirmed positive the employee shall be subject to section VI, paragraph c of this policy manual.

### **IX. Chain of Custody**

Chain of Custody is a record of every person who has responsibility of a urine specimen from the moment the specimen was collected to the moment the analysis is completed.

In order for the result of a particular specimen to be considered valid, it is necessary to show that the specimen itself has been handled responsibly and that no altering or tampering of the specimen has taken place. Chain of custody procedures are the most challenged aspect of drug testing and there are fundamental rules that will be applied to all testing procedures to avoid violation of a chain of custody.

A specimen is considered safely in custody only while it is in the physical control of a responsible technician and/or placed in a secure locked place, such as a locked box, desk, safe, file cabinet or refrigerator. Appropriate chain of custody forms must be utilized for the purpose of maintaining control and accountability from initial collection to final disposition of all specimens. These forms will always accompany a specimen and the information thereon must match label items and a sequential number assigned to each urine specimen.

### **X. Medical Review Officer**

The laboratory reports all drug test results in a confidential manner to the designated Medical Review Officer, or MRO. The MRO must be a fully certified physician with knowledge of illicit drugs and how they are metabolized by the human body. In the event of a confirmed positive screening, the MRO shall contact the employee and discuss in confidence any findings.

Depending on which type drug was discovered the MRO will question the employee regarding the drug and if it was a legally prescribed drug. THC, an active ingredient in marijuana can be administered for an eye condition such as glaucoma, or for suppressing nausea from chemotherapy treatments. Cocaine as well, is occasionally used during nasal surgery.

If the employee who has screened positive provides proof of the need for utilization of these drugs in the form of a prescription, the name of the doctor who prescribed the drug or a copy of the label attached to the bottle in which the drug was issued from the pharmacy, the MRO may indicate that the screening was negative if he finds no other suspicious circumstances.

The employer will never know that an employee was under suspicion of a positive test, unless the employee chooses to inform the employer. However, if the employee cannot explain or justify to the MRO why he/she tested positive, the MRO will inform the employee that his employer shall be notified of the positive test result. He shall also notify the employee of his/her right to a split analysis.

If a split sample method of collection was utilized, the MRO shall notify each employee who showed positive after a test, that such employee has seventy two (72) hours in which to request a test of the split specimen if the original test was positive.

If the employee requests an analysis of the split specimen within the allowable seventy two hours after notification of a positive test, the MRO shall direct the laboratory in writing to provide the split specimen to another DHHS certified laboratory for such analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or of the drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or unstable, the MRO shall cancel the

test and report the cancellation and the reasons for it to the employer and the employee. At that point, the employee may be required to submit to further testing and shall not return to his/her regular duties until the employee has been cleared to do so by a SAP, or the EAP Coordinator. In the event of a positive confirmation of the split specimen the MRO shall immediately notify the employer and the employee shall be subject to the conditions prescribed in section VI of this policy.

**Conclusion**

The Town of Babylon realizes that some employees who are subject to this policy sometimes need assistance beyond that which is required under the Omnibus Transportation Act. Towards that end the Town suggests utilization of its Employee Assistance Program (EAP). In particular, if the employee proves positive for a drug or alcohol screening. This program is available to all employees and their relatives and is not restricted to employees with drug and alcohol problems. The program offers assistance to employees who may be experiencing other problems besides those of substance abuse.

The Town encourages its employees to utilize the EAP and to take advantage of what it offers. An employee need not wait until he/she tests positive. In fact, if an employee makes his/her needs known prior to such testing, not only will they be helped but also may avoid the consequences described in this policy for substance abuse. A sincere effort by the employee to deal with a substance abuse problem must be demonstrated before he/she would be allowed to resume their regular duties such as driving or employment in a safety sensitive position.

There has been sufficient literature distributed to all employees, as well as notices posted throughout the Town notifying employees of the existence of the EAP. Below is information describing how an employee may contact the EAP to request assistance. All such contacts are held in the strictest confidence.

The Town of Babylon contracts with an outside company to provide EAP services. They are the Labor Education and Community Services Agency, Inc. (LECSA) Employee Assistance Program.  
390 Rabro Drive  
Hauppauge, NY 11788  
631-851-1295

**WHO TO CALL: Delores Bocklet, The Town’s EAP Coordinator at: Telephone 631-422-7676. The EAP Coordinator** will schedule an appointment and speak with an employee in private. Employees may be assured that any conversation is strictly confidential and secure and will have no impact on their employment record.

The Administrator authorized by the Town of Babylon to conduct and monitor OTETA and the Town of Babylon Alcohol and Drug Testing Policy requirements and procedures is as follows:

*DATCO Services Corporation*  
2280 Grass Valley Highway  
Suite 232  
Auburn, CA 95603  
Jeffery Ellins: President  
Phone: 530-268-5101  
800-953-2826

DATCO Testing is responsible for the following:

- Program Administration
- Collection Services
- Laboratory Services
- Testing and Related Materials
- Medical Review Officer Services
- Reporting and Record Keeping
- Training
- Random Selection

The Health and Human Services laboratory utilized by DATCO Testing is MedTox Laboratories, located at:  
402 West County Line Road D,  
St. Paul MI 55222  
Phone: 1 800 832 3244

This laboratory is highly qualified to perform such services and has a proven track record in client response and working in accordance with Federal, State and local regulations. DATCO Services Corporation will provide reliable and efficient service and be responsive to both employee and Town needs equally.

**TERMS USED IN THIS POLICY**

**CDL:** Commercial Driver’s License

**Safety Sensitive Position:** An employee who is an authorized Peace Officer and certified as such by the State of New York. An employee who holds a position whereby he is responsible to safeguard the public.

**OTETA:** The Omnibus Transportation Employee Testing Act.

**DOT:** Department of Transportation

**Subject Employee:** An employee covered under the Town of Babylon’s Alcohol and Drug Testing Policy and mandated to comply with its requirements.

**BAT:** Breath Alcohol Technician: A New York State certified individual authorized to conduct alcohol testing.

**Substance Abuse Professional (SAP):** A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow up testing and after care of such employee.

**Protocol:** Code prescribing strict adherence to a plan of procedures described in Federal and State regulations or the Town of Babylon Drug and Alcohol Testing policy.

**MRO:** Medical Review Officer. A board certified physician.

**Split Sample:** A method of specimen collection whereby a specimen is placed in two separate containers.

**D.E.R.:** Designated Employer Representative.

**DHHS:** Department of Health and Human Services

**RESOLUTION NO. 106 FEBRUARY 1, 2023  
AMENDING THE SALARY PLAN FOR PART-TIME, HOURLY, AND SEASONAL EMPLOYEES**

BE IT RESOLVED by the Town Board of the Town of Babylon that the following salaries for certain part-time, hourly, and seasonal positions be and the same are hereby adopted:

<b>TITLE</b>	<b>SALARY</b>
Account Clerk /Account Clerk Typist Spanish	16.00 - 18.00/hr.
Assessment Assistant	16:00/hr.

Assistant Beach & Pool Manager	15:00 – 20.00
Assistant Town Attorney	20.00 - 30.00/hr.
Bay Constable – HOURLY, up to 30 hrs./week	18.00 - 30.00/hr. plus 10% Night Differential
Beach & Attendant	15.00 - 18.00/hr.
Beach & Pool Manager	15.00 - 22.00/hr.
Bingo Inspector, Part-time	25.00/hr.
Building Inspector I - HOURLY, up to 30 hrs./week	22.00/hr.
Building Inspector II - HOURLY, up to 30 hrs./week	25.00/hr.
Building Inspector III - HOURLY, up to 30 hrs./week	27.00/hr.
Building Inspector IV - HOURLY, up to 30 hrs./week	30.00 - 75.00/hr.
Chief Building Inspector – HOURLY, up to 30 hrs./week	50.00 - 75.00/hr.
Certified Public Accountant	30.00/hr.
Clerical	15.00 - 18.00/hr.
Clerk Typist	15.00 - 18.00/hr.
Clerk	15.00/hr.
College Intern Analyst I	15.00/hr.
College Intern Analyst II	16.00/hr.
College Intern Analyst III	17.00/hr.
Community Pride Worker I	15.00/hr.
Community Pride Worker II	15.50/hr.
Community Pride Worker III	16.00/hr.
Community Pride Worker IV	16.50/hr.
Community Pride Worker V	17.00/hr.
Community Pride Worker VI	17.50/hr.
Community Pride Worker VII	18.00/hr.
Contract Staff-Administrative	15.00 - 30.00/hr.
Cook	16.00/hr.
Custodian	15.00 - 18.00/hr.
Data Entry Operator	16.00/hr.
Data Processing Equip. Operator	16.45/hr.
Deputy Supervisor	50,000/annual
Dispatcher – HOURLY, up to 30 hrs./week	15.00 - 30.00/hr. plus 10% Night Differential
Dock Master	15.00 - 25.00/hr.
Document Imaging Operator I	15.00/hr.
Document Imaging Operator II	16.00/hr.
Document Imaging Operator III	17.00/hr.
Document Imaging Operator IV	18.00/hr.
Drug & Alcohol Counselor I	18.00 - 22.00/hr.
Drug & Alcohol Counselor II	23.00 - 25.00/hr.
Drug & Alcohol Counselor III	26.00 - 30.00/hr.
Drug & Alcohol Counselor IV	31.00 - 35.00/hr.
Duplicating Machine Operator	14.00 - 15.00/hr.
EAP Coordinator	85.00/hr.
Electrician I	20.00 - 21.00/hr.
Electrician II	21.01 - 22.00/hr.
Electrician III	22.01 - 23.15/hr.
Electrician IV	23.16 - 24.32/hr.
Engineering Aide I	20.00/hr.
Engineering Aide II	22.50/hr.
Engineering Aide III	25.00/hr.
Environmental Analyst Part Time	20.00 - 40.00/hr.
Environmental Steward I	15.00/hr.
Environmental Steward II	15.50/hr.
Environmental Steward III	16.00hr
Environmental Steward IV	16.50/hr.
Environmental Steward V	18.75/hr.
Environmental Steward VI	21.35/hr.
Environmental Steward VII	23.35/hr.
Environmental Steward VIII	25.65/hr.
Environmental Steward IX	27.95/hr.
Environmental Steward X	30.40/hr.
Examiner I	17.00 – 20.00/hr.
Examiner II	20.00 – 23.00/hr.
Examiner III	23.00 – 25.00/hr.
Facilities Guard- HOURLY, up to 30 hrs./week	18.00-25.00/hr.
Fire Marshal Call-In	50.00/hr.
Fire Marshal I	15.00 - 16.00/hr.
Fire Marshal II	16.01 - 17.00/hr.
Fire Marshal III	17.01 - 18.00/hr.

Fire Marshal IV	18.01 - 19.00/hr.
Fire Marshal V	19.01 - 20.00/hr.
Fire Marshal VI	20.01 - 25.00/hr.
Fire Marshal VII	25.01 - 30.00/hr.
GIS Technician I/II/III, part time	22.00-27.00/hr.
Government Liaison Officer	50.00/hr.
Government Liaison Officer II	375.00/meeting
Groundskeeper	15.00 – 16.00/hr.
Guard I – HOURLY, up to 30 hrs./week	15.00 – 18.00/hr.
Guard II – HOURLY, up to 30 hrs./week	18.50 – 20.00/hr.
Guard III (Supervisor) – HOURLY, up to 30 hrs./week	20.50 - 22.00/hr.
Guard IV (L.T.) – HOURLY, up to 30 hrs./week	22.50 – 25.00/hr.
Historian	16.00/hr.
Kennel Attendant I	15.00/hr.
Kennel Attendant II	15.50/hr.
Kennel Attendant III	16.00/hr.
Kennel Attendant IV	16.50/hr.
Laborer I	15.00/hr.
Laborer II	15.50/hr.
Laborer III	16.00/hr.
Laborer IV	16.50/hr.
Laborer V	17.00/hr.
Laborer VI	17.50/hr.
Laborer VII	18.00/hr.
Law Clerk	16.25/hr.
Law Intern I	15.00/hr.
Law Intern II	16.00/hr.
Law Intern III	17.00/hr.
Material Control Clerk	15.00/hr.
Medical Billing Agent	20.00 - 30.00/hr.
Medical Director-Drug Abuse Treatment	120.00 - 175.00/hr.
Micrographics Operator	15.00/hr.
Mini Bus Driver – up to 20 hrs./week	15.00-20.00/hr. contract
Neighborhood Aide	15.00/hr.
Ordinance Enforcement Officer I	15.00/hr.
Ordinance Enforcement Officer II	16.00/hr.
Ordinance Enforcement Officer III	17.00/hr.
Ordinance Enforcement Officer IV	18.00/hr.
Ordinance Enforcement Officer V	20.00/hr.
Ordinance Inspector I	15.00/hr.
Ordinance Inspector II	16.00/hr.
Ordinance Inspector III	17.00/hr.
Ordinance Inspector IV	18.00/hr.
Paralegal Assistant	18.00/hr.
Paralegal Assistant II	20.00/hr.
Park Attendant I	15.00 – 18.00/hr. plus 10% Night Differential
Park Attendant II	18.00 – 20.00/hr. plus 10% Night Differential
Park Ranger – HOURLY, up to 30 hrs./week	18.00 - 30.00/hr. plus 10% Night Differential
Parking Meter Officer	16.00 - 19.00/hr.
Part Time Fire Marshal Call-In	50.00/hr.
Part Time Maintenance Mechanic I	20.00- 45.00/hr.
Part Time Maintenance Mechanic II	20.00- 45.00/hr.
Part Time Maintenance Mechanic III	20.00- 45.00/hr.
Part Time Maintenance Mechanic IV	20.00- 45.00/hr.
Photo Technician	30.00/hr. (Effective 01/01/2022)
Planning Aide	18.00/hr.
Plumber I	16.00/hr.
Plumber II	17.00/hr.
Plumber III	18.00/hr.
Plumbing Inspector I	15.00/hr.
Plumbing Inspector II	16.00/hr.
Plumbing Inspector III	17.00/hr.
Plumbing Inspector IV	18.00/hr.
Plumbing Inspector V	20.00/hr.
Plumbing Inspector VI	25.00/hr.
Plumbing Inspector VII	30.00/hr.
Pole Inspector I	15.00/hr.
Pole Inspector II	16.00/hr.
Pole Inspector III	17.00/hr.

Program Aide I-HOURLY, up to 30 hrs./week	15.00/hr.
Program Aide II-HOURLY, up to 30 hrs./week	16.00/hr.
Program Aide III-HOURLY, up to 30 hrs./week	18.00/hr.
Program Aide IV-HOURLY, up to 30 hrs./week	20.00/hr.
Program Aide V-HOURLY, up to 30 hrs./week	22.00/hr.
Program Aide VI-HOURLY, up to 30 hrs./week	25.00/hr.
Program Aide VII-HOURLY, up to 30 hrs./week	30.00/hr.
Recreation Aides	15.00- 20,00
Recreation Specialist	15.00 - 30.00/hr.
Recreation Specialist-HOURLY, up to 30 hrs./week	30.00 - 85.00/hr.
Registered Nurse	40.00/hr.
Rental/Accessory Apartment Inspector I	15.00/hr.
Rental/Accessory Apartment Inspector II	20.00/hr.
Rental/Accessory Apartment Inspector III	25.00/hr.
Sanitation Inspector I	15.00/hr.
Sanitation Inspector II	16.00/hr.
Sanitation Inspector III	17.00/hr.
Seasonal Ordinance Enforcement Officer IV	17.00/hr.
Senior Bay Constable	15.00 - 20.00/hr.
Senior Citizen Specialist	18.00/hr.
Senior Clerk I	15.00/hr.
Senior Clerk II	16.00/hr.
Senior Clerk III	17.00/hr.
Senior Clerk IV	18.00 /hr.
Senior Park Ranger	15.00 - 20.00/hr.
Sign Language Interpreter	60.00/mtg.
Solid Waste Administrator-HOURLY, up to 30 hrs./week	50.00 - 85.00/hr.
Stenographer	15.00/hr.
Student Intern	15.00 – 18.00/hr.
Student Intern II	17.00/hr.
Switchboard Operator I	15.00/hr.
Switchboard Operator II	16.00/hr.
Switchboard Operator III	17.00/hr.
Switchboard Operator IV	18.00/hr.
Tax Clerk I	16.00/hr.
Tax Clerk II	17.00/hr.
Tax Clerk III	18.00/hr.
Tax Clerk IV	19.00/hr.
Tax Clerk V	20.00/hr.
Tax Clerk VI	21.00 /hr.
Tax Clerk VII	22.00/hr.
Tax Clerk VIII	23.00/hr.
Tax Receiver Office Guard	25.00 - 40.00/hr.
Town Investigator	20.00 - 50.00/hr.
Traffic Engineer I	25.00 - 35.00/hr.
Traffic Engineer II	35.00 - 45.00/hr.
Trainer for Health and Wellness	30.00/hr.
Veterinary Technician I	18.00/hr.
Veterinary Technician II	20.00/hr.
Veterinary Technician III	22.00/hr.
Veterinary Technician IV	25.00/hr.
Youth Counselor	15.20/hr.
Zoning Inspector I	15.00/hr.
Zoning Inspector II	16.00/hr.
Zoning Inspector III	17.00/hr.
Zoning Inspector IV	18.00/hr.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 107 FEBRUARY 1, 2023  
APPOINTING CHIEF LIFEGUARD AND FIRST ASSISTANT CHIEF LIFEGUARD**

BE IT RESOLVED, that John Rowland is hereby appointed as Chief Lifeguard and Daniel Bachety is hereby appointed as First Assistant Chief Lifeguard, effective February 1, 2023 pursuant to the Lifeguard Contract. The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 108 FEBRUARY 1, 2023  
CONFIRMING MEMBERSHIP TO THE NORTH LINDENHURST FIRE DEPARTMENT, INC.**

BE IT RESOLVED, that pursuant to Section 1402 of the Not-For-Profit Law of the State of New York, the following residents are duly elected in conformity with the By-Laws of the North Lindenhurst Fire Department, Inc., 1630 Straight Path, North Lindenhurst, New York:

Katerina DeAngelis	733 11 <sup>th</sup> Street West Babylon, NY 11704
Bianca Bajaj	125 12 <sup>th</sup> Avenue West Babylon, NY 11704

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0  
The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 109 FEBRUARY 1, 2023  
DECLARING A PORTION OF NORTH PLAZA SITUATED IN AMITY HARBOR, COPIAGUE, TOWN OF BABYLON, SUFFOLK COUNTY, NEW YORK, TO BE USELESS AND NO LONGER NECESSARY FOR HIGHWAY PURPOSES AS WELL AS AN IMPEDIMENT TO THE REDEVELOPMENT OF THE SURROUNDING COMMUNITY AND PERMITTING THE COMMISSIONER OF THE BABYLON DEPARTMENT OF PUBLIC WORKS TO DISCONTINUE SAME AS A TOWN ROAD PURSUANT TO THE NEW YORK STATE HIGHWAY LAW § 171(2).**

WHEREAS, a portion of certain Right-of-Way property presently owned by the Town of Babylon, as more fully described in Exhibit "1" attached hereto, is situated within the geographical boundaries of Amity Harbor, Copiague, Town of Babylon, Suffolk County, New York; and

WHEREAS, in the event that those portions of North Plaza described herein were closed, said abutting owners would not lose public highway access and no other property owners would lose access to public highway as a result of said closure; and

WHEREAS, the Commissioner of the Babylon Town Department of Public Works, in his capacity as Town Highway Superintendent, has, in writing, requested to discontinuance of the right-of-way described above, and in support of said request, has submitted a Short Environmental Assessment Form showing that he proposed road discontinuance is an unlisted action under SEQRA and a negative declaration is hereby under consideration and duly adopted (Exhibit "2"); and

WHEREAS, the Commissioner of the Babylon Town Department of Public Works, in his capacity as Town Highway Superintendent, has requested that the Supervisor of the Town of Babylon, Suffolk County, New York, be authorized by this Town Board to execute a Consent and Release to the proposed road abandonment in the form required by New York State Law (Exhibit "3")

NOW THEREFORE BE IT

1. RESOLVED, that the above-described activity is an Unlisted Action pursuant to the provisions of Title 6 NYCRR Part 617; and be it further
2. RESOLVED, that the proposed action will not have a significant adverse impact on the environment because the proposed action will not exceed any of the criteria of Title 6 NYCRR Part 617.7(c), which sets forth thresholds for determining significant effect on the environment as demonstrated in the Environmental Assessment; and be it further
3. RESOLVED, that portion of North Plaza situated in Amity Harbor, Copiague, Town of Babylon, Suffolk County, New York, as more fully described in Exhibit "1" attached hereto, is hereby declared to be useless and no longer necessary for highway purposes and is an impediment to the redevelopment of the surrounding community; and be it further
4. RESOLVED, that the Supervisor of the Town of Babylon, Suffolk County, New York, be and hereby is authorized to execute a Consent and Release to the proposed road abandonment in the form required by New York State Law as depicted in Exhibit "3" attached hereto; and be it further
5. RESOLVED, that the Commissioner of the Babylon Department of Public Works in his capacity as Town Highway Superintendent, is hereby authorized to discontinue that certain Right-of-Way as more fully described in Exhibit "1" attached hereto as a Town Road pursuant to New York State Highway Law §171 (2) in accordance with the provisions of said statute; and be it further
6. RESOLVED, that the Supervisor of the Town of Babylon, Suffolk County, New York, be and hereby is authorized to execute all documents necessary of the transfer.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0  
The above resolution was thereupon declared duly adopted.

**Exhibit 1  
Metes & Bounds Description**

Proposed Tax Lot of South Side of North Plaza

All that certain plot, piece, or parcel of land, situated, lying, and being in the Town of Babylon, County of Suffolk and State of New York, bounded and described as follows:

**COMMENCING** from a point being the northwesterly corner of Buchanan Ave. and North Plaza and running westerly North 80° 00' 00" West 503 feet along the North Side of North Plaza  
Running Thence South 10° 00' 00" West 51.58 feet; along the West Side of North Plaza to the

**POINT OF BEGINNING:**

RUNNING THENCE South 80°16'00" East 43.00 feet; through the lands of North Plaza to a point;  
THENCE South 10° 00' 00" West 6.50 feet; to a point;  
THENCE North 80° 16' 00" West 43 feet; along the Essex Lagoon to a point;  
THENCE North 10° 00' 00" West 6.50 feet; along the westerly terminus of North Plaza to the **POINT OF BEGINNING.**

Area=280 Sq. F.

**Exhibit 2**

“has submitted a Short Environmental Assessment Form showing that he proposed road discontinuance is an unlisted action under SEQRA and a negative declaration has been requested (Exhibit “2”)

**Exhibit 3**

**CONSENT AND RELEASE TO PROPOSED ROAD ABANDONMENT**

I, Richard Schaffer, Supervisor of the Town of Babylon, a municipality located at 200 E. Sunrise Highway, Lindenhurst, New York 11757, pursuant to Highway Law Section 171, consent to the release of the terminus of land described herein in association with the abandonment of a portion of North Plaza, Amity Harbor, Copiague.

WHEREAS, the Town of Babylon wishes to abandon a portion of North Plaza in Amity Harbor, Copiague, and consents and releases the terminus of North Plaza more accurately described as follows:

All that certain plot, piece, or parcel of land, situated, lying, and being in the Town of Babylon, County of Suffolk and State of New York, bounded and described as follows:

**COMMENCING** from a point being the northwesterly corner of Buchanan Ave. and North Plaza and running westerly North 80° 00' 00" West 503 feet along the North Side of North Plaza  
Running Thence South 10° 00' 00" West 51.58 feet; along the West Side of North Plaza to the  
**POINT OF BEGINNING:**  
RUNNING THENCE South 80°16'00" East 43.00 feet; through the lands of North Plaza to a point;  
THENCE South 10° 00' 00" West 6.50 feet; to a point;  
THENCE North 80° 16' 00" West 43 feet; along the Essex Lagoon to a point;  
THENCE North 10° 00' 00" West 6.50 feet; along the westerly terminus of North Plaza to the **POINT OF BEGINNING.**  
Area=280 Sq. F.

Richard Schaffer, Town Supervisor  
Town of Babylon  
200 E. Sunrise Highway  
Lindenhurst, New York 11757  
Dated: \_\_\_\_\_

**RESOLUTION NO. 110 FEBRUARY 1, 2023  
SCHEDULING A PUBLIC HEARING IN REFERENCE TO  
AMENDING THE CODE OF THE TOWN OF BABYLON,  
CHAPTER 168 (PEDDLERS, SOLICITORS AND CANVASSERS)**

BE IT RESOLVED, by the Town Board of the Town of Babylon, that a Public Hearing be held at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 15<sup>th</sup> day of February, 2023 at 3:00 p.m., prevailing time, to consider adopting a local law to amend the Babylon Town Code as set forth in Exhibit “A” annexed hereto; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon is directed to publish notice of said public hearing in one of the official newspapers of the Town.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**Exhibit “A”**

**AMEND** as follows:

**CHAPTER 167**

**PEDDLERS, SOLICITORS AND CANVASSERS**

**§ 167-1. Definitions.**

For the purpose of this chapter, certain words are defined as follows:

**CANVASS and CANVASSER**

Considered as synonymous with the terms "solicit" and "solicitor."

**COMPANY**

Any association of individuals, partnerships, firms, corporations or any other organization.

**PEDDLE**

To go from house to house, from store to store, from place to place or from street to street to sell and make immediate delivery of or offer for sale and delivery any goods, wares, merchandise, food, beverages or provisions in possession of the seller at any place within the Town other than from a fixed place of business. Nothing in this definition shall excuse a peddler from this chapter for failing to go from house to house, from store to store, from place to place or from street to street, and who remains stationary in any place in the Town of Babylon without a certificate of occupancy for a building or structure from which sales of that kind are permitted. [Amended 12-7-2004 by L.L. No. 31-2004]

**PEDDLER**

Any person or company who peddles, including any person who helps or assists another in the act of peddling. The words "peddler," "hawker" and "huckster" shall be considered synonymous terms. Peddlers shall include, but not be limited to: hotdog and food/beverage trucks, stands or other means or objects from which hotdogs or food/beverages or any other merchandise are sold. [Amended 12-7-2004 by L.L. No. 31-2004]

**PERSON**

A natural person or an individual over the age of 16 years.

**SOLICIT**

To go from house to house, street to street, place to place or from store to store to sell or take orders for goods, wares, merchandise, food, beverage or provisions for future delivery or for services to be performed or for information to be obtained or to distribute advertising matter at any place within the Town other than from a fixed place of business. Nothing in this definition shall excuse a solicitor for failing to go from house to house, from store to store, from place to place or from street to street, and who remains stationary in any place in the Town of Babylon without a certificate of occupancy for a building or structure from which sales of that kind are permitted. [Amended 12-7-2004 by L.L. No. 31-2004]

**SOLICITOR**

Any person or company who solicits as herein defined.

**§ 167-2. License required.**

It shall be unlawful for any person or company to peddle or solicit within the Town, or to assist another to peddle or solicit in the Town, without having first obtained a valid license ~~therefor to peddle or solicit~~ as provided herein.

**§ 167-3. Application for License.**

[Amended 6-23-1992; 3-4-1997 by L.L. No. 2-1997]

- A Applicants for a license under this chapter shall file an application with the Town Clerk in the form of a sworn affidavit, in duplicate, on a form to be supplied by the Town Clerk, which application shall furnish the following information:
- (1) The name, address and telephone number of the applicant.
  - (2) The applicant's place of residence for the past five years.
  - (3) The applicant's business or employer for the past five years.
  - (4) The applicant's age, height, weight, color of eyes, color of hair and place of birth.
  - (5) Two full-face photographs of the applicant taken within 30 days of application and measuring 1 1/2 inches by 1 1/2 inches.
  - (6) Whether or not the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance, except traffic violations, and, if so, the date, court, ordinance and sentence of the court.
  - (7) Whether the applicant has been previously licensed in any occupation and, if so, when, where and for what period and, if such previous license was ever revoked, the date of revocation and the reason therefor.
  - (8) The name and address of the person, firm or corporation the applicant represents or is employed by.
  - (9) The particular business, trade or occupation for which the license is requested.
  - (10) The manner or means of conveyance in which said business or trade or occupation shall be conducted.
  - (11) If the application is for a license to handle food in any form, the applicant shall submit a valid permit issued by the Suffolk County Health Department indicating compliance with the provisions of the Suffolk County Public Health Local Law.
  - (12) If the applicant requires the use of weighing and/or measuring devices, such application shall be accompanied by a certificate from the County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
  - (13) If the application involves use of a vehicle, proof of a valid New York Motor Vehicle Registration for the vehicle to be used.
  - (14) If the application involves the use of a vehicle, proof that the applicant holds a valid New York State driver's license.
  - (15) Proof that the applicant holds a New York State sales tax identification number.
  - (16) Proof that the applicant has been electronically fingerprinted through a New York State Division of Criminal Justice Services (DCJS) approved Statewide Vendor-Managed Civil Fingerprint Capture System.
  - ~~(17)~~ (17) In the event that any other license or permit shall be required by any other governmental agency in connection with the applicant's business, the same shall be produced by the applicant, and the Town Clerk shall duly note the same.
  - ~~(18)~~ (18) Charitable solicitations. Any person or any employee of any organization who is required to be registered with the Attorney General of the State of New York under the provisions of Article 7-A of the Executive Law of the State of New York, relating to the solicitation and collection of funds for charitable purposes, shall exhibit evidence of such registration to the Town Clerk.
- B. Any change in circumstances with regard to the information provided in the application or on the license shall be reported to the Town Clerk within 30 days.

**§ 167-4. Issuance of license.**

[Amended 8-3-2022 by L.L. No. 16-2022]

Upon receipt of the application provided for in § 167-3 and payment of the fee hereinafter provided for, the Town Clerk, if satisfied that the applicant possesses the proper qualifications, shall issue a license to the applicant within 60 days of the completed application, which license shall contain a photograph of the licensee.

**§ 167-5. Record of licenses issued.**

The Town Clerk shall keep a record of all licenses issued under the provisions of this chapter.

**§ 167-6. License fees.**

[Amended 9-8-1976; 5-5-1992; 3-4-1997 by L.L. No. 2-1997; 8-3-2022 by L.L. No. 16-2022]

- A. The following fees shall be collected by the Town Clerk at the time applications are presented:
1. For a motor vehicle: \$250.
  2. For a pushcart or any other nonmotorized vehicle: \$150.
  3. For each and every person ~~selling peddling or assisting a peddler~~ from a vehicle: \$50.
  4. For peddling and/or soliciting or assisting a peddler or solicitor from house to house: \$50.
  5. For peddling or soliciting or assisting a peddler or solicitor without a vehicle: \$50.
- B. Fees shall not be refunded.
- C. There shall be no reduction in fees for licenses issued for a fractional part of a year.

**§ 167-7. License to be carried.**

Each person licensed hereunder shall carry on his or her person the license issued by the Town Clerk at all times that he or she is engaged in his business and shall exhibit it to any person upon request.

**§ 167-8. Eligibility.**

[Added 3-4-1997 by L.L. No. 2-1997]

Only a person who is a resident of the State of New York will be eligible for a peddler's license or vehicle license pursuant to this chapter.

**§ 167-9 (Reserved)**

**§ 167-10. Licensing of veterans.**

[Amended 3-4-1997 by L.L. No. 2-1997]

- A. Exemption. Any honorably discharged veteran of the armed services of the United States who has obtained a veteran's license from the Suffolk County Clerk to hawk, peddle, vend or solicit trade in pursuance of law shall be exempt from the provisions of § ~~167-6~~ of this chapter.
- B. Issuance of permit. In lieu of a license the Town Clerk, upon approval of the veteran's application, shall issue a permit to said veteran to ply his or her trade within the Town, subject to all other provisions of this chapter. Such permit shall be stamped in ink on the county license.



§ 167-11. **Insurance requirements.**  
[Amended 3-21-1989]

Any itinerant peddler or solicitor offering rides or transportation on any portable conveyance more commonly known as "carousels," "whips," "fire engines" and the like shall be required to furnish public liability insurance in the minimum amounts of \$1,000,000 for injuries, including wrongful death, to any person, \$3,000,000 to cover any accident involving more than one person, and property damage insurance in an amount not less than \$25,000 involving property damage to one person and \$50,000 for any one accident. Certificates of such insurance shall be filed with the Town Clerk at the time of issuance of the permit.

§ 167-12. **Nontransferability of license.**  
[Amended 4-5-1977]

No license, license plate or badge issued under the provisions of this chapter may be transferred from one person to another person or from one vehicle to another vehicle, nor shall the badge so issued be used or worn at any time by any person other than the person to whom it was issued.

§ 167-13. **Revocation of license.**

- A. Grounds; authority. Licenses issued under the provisions of this chapter may be revoked by the Town Clerk after notice and hearing for any of the following causes:
  1. Fraud, misrepresentation or false statement contained in the application for license.
  2. Fraud, misrepresentation or false statement made in the course of carrying on business as a peddler or solicitor.
  3. Any violation of this chapter.
  4. Conviction of any crime or misdemeanor involving moral turpitude.
  5. Conducting the business of peddling in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of hearing. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing.
- C. Conduct of hearing. The hearing shall be a public hearing conducted by the Town Board.

§ 167-14. **Appeal of license denial or revocation.**

- A. Right of appeal. Any person aggrieved by the action of the Town Clerk in the denial of an application for a license, as provided in § 167-4 of this chapter, or in the decision of the Town Clerk with reference to the revocation of a license, as provided in § 167-13 of this chapter, shall have the right to appeal to the Town Board.
- B. Conduct of appeal. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing on such appeal shall be mailed to the applicant at his or her last known address at least five days prior to the date set for the hearing.
- C. Decision on appeal. The decision and order of the Town Board on such appeal shall be final and conclusive.

§ 167-15. **Hours of operation.**  
[Amended 8-3-2022 by L.L. No. 16-2022]

It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting except after 9:00 a.m. of any day until dusk (i.e., 30 minutes before sunset) except upon the invitation of the householder or occupant.

§ 167-16. **Effect of signs.**

It shall be unlawful for any peddler or solicitor in plying his or her trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents" or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

§ 167-17. **Location of sales.**  
[Amended 3-21-1989]

- A. No peddler or solicitor shall have any exclusive right to any location in the public streets; nor shall any peddler or solicitor be permitted to sell wares within 200 feet of a school between the hours of 8:00 a.m. and 4:00 p.m. on a school day; nor shall he be permitted to sell his or her wares within 300 feet of a Town-owned park; nor shall he be permitted to stand in one place for more than 30 minutes; nor shall he be permitted to stop within 200 feet of a previous stop; nor shall he be permitted to operate in any congested area where his or her operation might impede or inconvenience the public.
- B. For the purpose of this section, the judgment of any police officer or Ordinance Enforcement Officer of the Town of Babylon, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- C. It shall be unlawful for any peddler or solicitor to set up a table, box, stand, bag, container or any other device upon any public sidewalk or roadway for the purpose of peddling or soliciting.
- D. No person shall occupy any part of a state highway for the purpose of peddling. For so long as the same is governed and regulated by state law, violation hereof shall be punishable in accordance with state law (Vehicle and Traffic Law).
- E. It shall be unlawful for any person to peddle within a radius of 1,500 feet of any public market or store engaged in the business of selling the same or similar goods, wares and merchandise offered by said peddler.

§ 167-18. **Peddling excluded from certain highways.**

- A. Enumerated. In the interest of public safety and due to the traffic hazards caused by the stopping of passing automobiles, no peddler shall conduct his or her business on the following highways or in such proximity to said highways as shall cause or shall be designed to cause or shall result in the stopping of automobiles on said highways for the purpose of trade:

\*\*\*

- B. Intersecting streets. No person may peddle from a motor vehicle on any street that intersects the streets above set forth unless he is distant more than 100 feet from said intersection.
- C. No peddler shall display merchandise or goods for sale other than on his or her person in or on the vehicle licensed pursuant to this chapter. Displays of merchandise on the ground or on movable structures or stands outside and unattached to the peddler's vehicle are prohibited. Use of tables, seats or any freestanding counter is prohibited.  
[Added 3-4-1997 by L.L. No. 2-1997]
- D. Size, placement and removal of vehicles.  
[Added 3-4-1997 by L.L. No. 2-1997]
  1. No vehicle, cart, wagon or trailer or combination thereof which exceeds 30 feet in total length shall be used by any peddler.

§ 167-19. **Exemptions from provisions.**

The provisions of §§ 167-4 through 167-8 and § 167-12 of this chapter shall not apply to the following:

- A. Charitable or religious organizations.
- B. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.

- C. Honorably discharged veterans of the armed forces of the United States who have obtained a veteran's license from the Suffolk County Clerk to hawk, peddle or vend pursuant to law.
- D. Persons maintaining a regular delivery route in the Town.
- E. Persons under 18 years of age.
- F. Persons licensed by the state to conduct the specific business or businesses to which the provisions of this chapter would otherwise be applicable.
- G. Commercial salesmen or deliverymen calling exclusively upon retail or wholesale establishments or other business firms within the Town.

§ 167-20. **Enforcement.**

[Amended 3-21-1989; 3-4-1997 by L.L. No. 2-1997]

- A. It shall be the duty of the County Police Department, together with the Town of Babylon Department of Planning and Development, Division of Public Safety, to enforce the provisions of this chapter against any person, company or entity found to be violating the same.
- B. Certificate of disposition of action. It shall be the duty of the Court Clerk of the court having jurisdiction to forward to the Town Clerk a certificate of disposition of any action brought in said court pertaining to this chapter.

§ 167-21 (**Reserved**)

§ 167-22. **Severability.**

[Added 3-21-1989]

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining section, sentences, clauses and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part.

ADDITIONS ARE INDICATED BY UNDERLINE  
 DELETIONS ARE INDICATED BY ~~STRIKETHROUGH~~

**RESOLUTION NO. 111 FEBRUARY 1, 2023  
 SCHEDULING A PUBLIC HEARING IN REFERENCE TO  
 AMENDING THE TRAFFIC CODE OF THE TOWN OF BABYLON,  
 CHAPTER TC-5 (COMMERCIAL VEHICLES; WEIGHT LIMITS) AND  
 CHAPTER TC-1 (GENERAL PROVISIONS), ARTICLE III (PENALTIES)**

BE IT RESOLVED, by the Town Board of the Town of Babylon, that a Public Hearing be held at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 15<sup>th</sup> day of February, 2023 at 3:00 p.m., prevailing time, to consider adopting a local law to amend the Town Traffic Code as set forth in Exhibit "A" annexed hereto; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon is directed to publish notice of said public hearing in one of the official newspapers of the Town.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5                      YEAS: 5                      NAYS: 0

The above resolution was thereupon declared duly adopted.

**Exhibit "A"**

**ADD** as follows:

**CHAPTER T-C-5  
 COMMERCIAL VEHICLES; WEIGHT LIMITS**

\*\*\*

§ TC-5-4 Idling of Heavy Duty Vehicles

- A. For purposes of this chapter, a heavy duty vehicle is a bus, truck or other vehicle that has a gross vehicle weight rating (GVWR) exceeding 8,500 pounds and is designed primarily for transporting persons or properties, whether the motive power for such vehicle is provided by a diesel or non-diesel fueled engine.
- B. No person who owns, operates or leases a heavy duty vehicle or who owns, leases or occupies land and has the actual or apparent dominion or control over the operation of a heavy duty vehicle on such land, shall allow or permit the engine of such heavy duty vehicle to idle for more than 15 consecutive minutes when the heavy duty vehicle is not in motion, except as otherwise permitted in subsection C below.
- C. The prohibitions set forth in subsection B above shall not apply when:
  - (1) A heavy duty vehicle is forced to remain motionless because of the traffic conditions over which the operator thereof has no control.
  - (2) A bus is idling while picking up or dropping off passengers.
  - (3) Regulations adopted by federal, state or local agencies having jurisdiction require the maintenance of a specific temperature of a bus for passenger comfort. The idling time specified in section 5-4(B) above may be increased, but only to the extent necessary to comply with such regulations.
  - (4) The vehicle's engine is being used to provide power for an auxiliary purpose, such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming; or when operation of the engine is required for the purpose of maintenance.
  - (5) A fire, police and public utility trucks or other vehicle is performing emergency services.
  - (6) A diesel fueled truck is to remain motionless for a period exceeding two hours, and during which period the ambient temperature is continuously below 25°F.
  - (7) A diesel fueled vehicle is queued for or is undergoing a State authorized periodic or roadside diesel emissions inspection pursuant to New York State law.
  - (8) A vehicles is being used for agricultural purposes on a farm.
  - (9) A hybrid electric vehicle is idling for the purpose of providing energy for battery or other form of energy storage recharging.
  - (10) An electric powered vehicle.

**AMEND** as follows:

**CHAPTER T-C-1  
GENERAL PROVISIONS  
ARTICLE III  
PENALTIES**

§ TC-1-5 Penalties for offenses

Every person convicted of an offense against this Code shall be punished pursuant to the following schedule of fines:

<b>Traffic</b>	<b>Code Section</b>	<b>Penalty</b>
	***	
§ TC -5-2	<u>Parking of Commercial Vehicles</u>	\$275
§ TC -5-4	<u>Idling of Heavy Duty Vehicles</u>	\$275

ADDITIONS ARE INDICATED BY UNDERLINE

**RESOLUTION NO. 112 FEBRUARY 1, 2023  
SCHEDULING A PUBLIC HEARING IN REFERENCE TO  
AMENDING THE CODE OF THE TOWN OF BABYLON,  
CHAPTER 213 (REGULATING PLAN TILE 8)**

BE IT RESOLVED, by the Town Board of the Town of Babylon, that a Public Hearing be held at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 15<sup>th</sup> day of February, 2023 at 3:00 p.m., prevailing time, to consider amending of the Town Code as set forth in Exhibit "A" annexed hereto; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon is directed to publish notice of said public hearing in one of the official newspapers of the Town.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**Exhibit "A"**

**AMEND** as follows:

Section 213-503 Regulating Plan Tile 8

Tile 8 of Section 213-503: Regulating Plans by Blocks, is hereby amended in connection with the proposed Building N to be located on Block 13 at the northwest corner of the intersection of Commonwealth Drive (ST-74-39) and West Lawn (ST-43-20), as follows:

- A. Build-to-Line. Build-to-line deviations not to exceed 5 feet are permitted along West Lawn (ST-43-20) frontage.
- B. Frontage Occupancy. Frontage Occupancy of 70-80% is permitted along West Lawn (ST-43-20).
- C. Frontage Occupancy. Frontage Occupancy of 58-70% is permitted along Commonwealth Drive (ST-74-39).
- D. Public Frontage (Urban-7 (U-7) frontage required). Urban-7 (U-7) public frontage requirement along Commonwealth Drive (ST-74-39) shall be eliminated.
- E. Private Frontage (Stoop or Porch and Landscaping Required). Stoop or porch and landscaping private frontage requirement for the West Lawn (ST-43-20) frontage shall be eliminated.
- F. Private Frontage (Dooryard-Hedge required). Dooryard and hedge private frontage requirement for the Commonwealth Drive (ST-74-39) frontage shall be eliminated.
- G. The provisions of this amendment shall supersede any contrary provisions set forth in Tile 8 of Section 213-503 – Regulating Plan by Blocks and Section 213-504 – Regulating Plan Elements.

ADDITIONS ARE INDICATED BY UNDERLINE  
DELETIONS ARE INDICATED BY ~~STRIKETHROUGH~~ or [ ]

**RESOLUTION NO. 113 FEBRUARY 1, 2023  
SCHEDULING A PUBLIC HEARING IN REFERENCE TO AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTER 213  
(ADMINISTRATION, SUBDIVISION OF LAND UNDER THIS ARTICLE, AMENDMENT OF THIS ARTICLE)**

BE IT RESOLVED, by the Town Board of the Town of Babylon, that a Public Hearing be held at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 15<sup>th</sup> day of February, 2023 at 3:00 p.m., prevailing time, to consider amending of the Town Code as set forth in Exhibit "A" annexed hereto; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon is directed to publish notice of said public hearing in one of the official newspapers of the Town.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The above resolution was thereupon declared duly adopted.

**Exhibit "A"**

**AMEND** as follows:

**§213-495 Administration**

**A. Department of Planning & Development**

- (1) Any application for development within the Wyandanch Straight Path Corridor Form Based Code (Wyandanch FBC) shall be processed and reviewed through the Department of Planning & Development. The Division of Downtown Revitalization (Downtown Revitalization), or such Planning Department staff designated to handle Downtown Revitalization matters, shall review and process these applications.
- (2) Purpose and Function of the Planning Department and the Office of Downtown Revitalization
  - a. The purpose of Planning Department staff and the Office of Downtown Revitalization in reviewing Wyandanch FBC applications is to foster walkable, transit-oriented development as per §213-492 and to ensure that all properties within the Wyandanch FBC Zoning District comply with the form based code in this Article XLII. Planning Staff shall also function as the main point of contact for applicants and shall ensure that all departments of the Town with jurisdiction over a project are consulted in a timely fashion to facilitate review of proposed developments.

- b. Downtown Revitalization and Planning Staff shall advise and provide recommendations to the Commissioner of Planning & Development (Commissioner) and the Chief Building Inspector in administering provisions of the Article XLII, including the interpretation of words and terms herein, review of applications submitted under provisions of this article, and such other duties as may be delegated to Downtown Revitalization and Planning Staff by the Commissioner of Planning & Development.
- c. Downtown Revitalization and Planning Staff shall review applications and proposals to ensure compliance with both the character and spirit of the Wyandanch FBC and the surrounding community and provide recommendations and guidance to the Commissioner regarding same.
- d. Downtown Revitalization and Planning Staff shall review all applications, in conjunction with other Town departments, and recommend approval, approval with conditions or modifications, or denial and shall notify the Commissioner of Planning & Development of its recommendations. Additional information may be requested if the application is deemed incomplete or inadequate for sufficient review.

**B. Commissioner of Planning & Development**

- (1) Final authority and decision making for all applications within the Wyandanch FBC shall lie with the Commissioner of Planning & Development (Commissioner), except for any required Board approvals as outlined in this article.
- (2) The Commissioner shall review all improvements, including alterations and modifications to structures for conformance with this article.
- (3) No Building Permit shall be issued by the Chief Building Inspector within the Wyandanch FBC Zoning District unless the Commissioner has determined that the application is consistent with the regulations and intent of this article.
- (4) The Commissioner shall coordinate with Downtown Revitalization and Planning Staff to ensure that all Town Agencies with jurisdiction over a project are included in the project review as early as practical in the review process.
- (5) A memorandum from the Commissioner shall serve as the authorizing approval for Step II of the three step review process as outlined in subsection D. (1).
- (6) The Commissioner shall have the authority to approve any minor encroachments or dimensional deviation requests, as expressly permitted by this article under §213-495 D. (1). Such minor encroachments shall not be permitted unless explicitly recommended in writing by either Planning Staff or the Form Based Code Architect (FBCA). All minor encroachments or dimensional deviation request must be specifically requested by the applicant in writing and shall provide the planning justification for such request, separate from any plans or drawings. Such requests shall individually be approved by the Commissioner upon determination that such minor encroachment or dimensional deviation request is consistent with the regulations and intent of this article. Approval of construction documents does not constitute approval of a minor encroachment or deviation if the minor encroachment or deviation has not been specifically requested and approved pursuant to this subsection (6).
- (7) Any authority granted to the Commissioner may be designated to the Deputy Commissioner of Planning & Development, the Director of Downtown Revitalization, or any other member of the Planning Department, by the Commissioner.

**C. Form Based Code Architect**

- (1) The Town of Babylon Department of Planning & Development shall retain an employee or consultant as the Form Based Code Architect (FBCA). The FBCA shall, at a minimum, be a licensed architect. The FBCA shall be appointed by the Town Supervisor in consultation with the Commissioner of Planning & Development.
- (2) In the event that the position of FBCA is vacant or that the FBCA is unavailable to perform the duties required by this article, such duties shall be performed by other staff members or consultants as designated by the Commissioner of Planning & Development.
- (3) Purpose and function of the FBCA
  - a. In addition to the various Town departments with jurisdiction over development applications within the Town of Babylon, the FBCA shall ensure that applications for development within the Wyandanch FBC Zoning District adhere to the Architecture Standards, as set forth in Part 6 of this article, and provide recommendations to the Commissioner regarding same. This includes review of overall building design, architectural style, ornamentation, color scheme, materials, and urban design context, among other elements as outlined within this article. Additionally the FBCA shall ensure that developments foster architectural harmony and comply with the intentions of the form based code as outlined in this article.
  - b. The FBCA shall be referred all applications for a proposed variance in order to provide an opinion and recommendation on a proposed variance's impact on the character of the neighborhood.
  - c. The FBCA may also be requested by the Commissioner to provide specific recommendations in writing regarding encroachments or dimensional deviations from the Form Based Code, as outlined in this article.
  - d. The FBCA shall provide all comments and feedback in writing to the Commissioner to help inform the decision making and review process.

**D. Pre-Construction Approval Process and Permits for Buildings and Uses**

**(1) Approval Process**

- a. All applications for development within the Wyandanch FBC Zoning District, shall undergo a three-step review and approval process as outlined in this article. At the discretion of the Commissioner, following a Step I: Concept Review, a determination shall be made regarding whether or not an application shall warrant completion of the three-step review process or standard review through the Department of Planning & Development.
- b. Step I: Concept Review
  - i. Establishes conceptual conformance with the requirements of the code.
  - ii. Shall determine whether a proposed use or structure is allowed by right, is prohibited, or may be allowed by special exception use permit.
  - iii. Shall consist of a preliminary meeting with the Commissioner, Planning Staff, and the FBCA to review preliminary plans and provide general feedback. Upon the completion of Step I: Concept Review and a determination by the Commissioner that the proposed development is feasible and consistent with the FBC, a Step II: Design Review application checklist will be issued. Once a checklist is received, an applicant may proceed with a formal Step II submission to the Planning Department.
- c. Step II: Design Review
  - i. Confirms compliance of the design details with this chapter and confirms that previous recommendations made by the Commissioner, Planning Staff, and the FBCA have been incorporated.
  - ii. ~~This step is akin to a site plan review.~~ A fully engineered site plan must be submitted and reviewed to ensure compliance with this article, including Part 3: Regulating Plan, Part 4: Development Standards, Part 5: Thoroughfare Standards, as well as other Town of Babylon specifications for development.
  - iii. This step also includes review of architectural elevations and floor plans, building renderings, material schedules, and color palettes, among other details, by the FBCA, to ensure compliance with this article, including Part 6: Architecture Standards.
  - iv. If a special exception use permit is required, as determined during Step I: Concept Review, the Commissioner will refer the application to the Town Board pursuant to Article XXXII. If such is the case, the Commissioner and Planning Staff will ensure that sufficient design information and detail is provided, in order for the Town Board to make an informed decision. A special exception use permit must be approved by the Town Board, prior to the completion of Step II: Design Review.
  - v. Minor encroachment request letters or requests for a dimensional deviation of 15% or less must be submitted during Step III: Design Review. As per §213-495 B. (6) the Commissioner may approve such a request upon determination that such request is consistent with this article and receipt of a favorable written recommendation from either Planning Staff or the FBCA.
  - vi. Variances must be applied for during Step II: Design Review. Upon review of an application by a Building Inspector, if a variance is required a denial will be written. Once a denial is written, it will be referred to the FBCA or Planning Staff, to provide a written opinion or recommendation on the impact of the requested variance on the neighborhood. After issuance of a denial and written comments are issued, the Commissioner may determine that an applicant can proceed with a formal application to the Zoning Board of Appeals.

- vii. A memorandum from the Commissioner shall serve as a formal approval for Step II: Design Review and acceptance of an approved site plan.
  - d. Step III: Construction Document Review
    - i. Confirms that the project will be constructed as approved in Step II: Design Review.
    - ii. Includes the complete review by the Building Inspector and/or Plans Examiner of construction drawings and documents, mechanical plans, and other necessary documents for issuance of a Building Permit.
    - iii. Requires conformance with all necessary conditions of Step II: Design Review approval, as well as any other outside agency approvals.
    - iv. Following construction document review, if determined that the plans are consistent with the previously approved plans and this article, a building permit shall be issued, in compliance with §213-495 E.
- (2) Special Exception Use Permit:
- a. Those uses which are specifically authorized in this article to be granted by special exception use permit may be allowed by the Town Board pursuant to Article XXXII. This will occur during Step II: Design Review, as outlined in §213-495 D. (1) (c) (iv).
- (3) Variances:
- a. Variances from the provisions of this article may be granted by the Zoning Board of Appeals pursuant to the statutory requirements in Sections 267-a and 267-b of the Town Law of New York State. Variance applications may be referred to the FBCA for an opinion on the effect of a proposed variance on the character of the neighborhood. The FBCA's response to the referral of a variance application shall specifically address whether or not the proposed variance will produce an undesirable change in the character of the neighborhood, including the desired walkable and pedestrian-friendly neighborhood character to be created by this Article XLII. Variance applications shall be made during Step II: Design Review, as outlined in §213-495 D. (1) (c) (vi).
- (4) Applications and Submission Items
- a. The required submission items, such as applications, forms, drawings, and documents, shall be determined by the Department of Planning & Development in order to ensure adequate and sufficient details are provided for a thorough and thoughtful review to be completed.
- (5) Review Fees
- a. The Town Board shall by resolution establish and from time to time update a schedule of fees for development applications brought pursuant to this article. Such fees shall be designed to cover the reasonable costs of review of applications under this article.
- (6) Compliance with the State Environmental Quality Review Act and Chapter 189 of the Town Code
- a. All Wyandanch FBC applications submitted to the Planning Department shall be referred to the Department of Environmental Control for review of environmental and stormwater impacts.
  - b. Applications for uses or activities allowed by right by this Part shall be deemed Type II actions under SEQRA and shall not require the submission of additional SEQRA documentation, if the Department of Environmental Control finds that such action fits within the environmental parameters reviewed within the Generic Environmental Impact Statement (GEIS).
  - c. Applications for special exception use permits, appeals, and variances shall be subject to the SEQRA requirements for Type I or Unlisted Actions, as required by the SEQRA Regulations and shall be reviewed accordingly by the Department of Environmental Control.
  - d. All applications for building or development shall comply with Chapter 189 requirements for stormwater management.
- (7) Wastewater Management
- a. The applicant shall apply to the Suffolk County Sewer Agency and Suffolk County Department of Health Services for sanitary wastewater disposal to connect to the Wyandanch Southwest Sewer District. On site wastewater disposal is not permitted. The Town shall be provided with estimated wastewater flow from the development pursuant to Suffolk County requirements.
- (8) Groundwater
- a. Because of the high groundwater table in the area, soil borings, at least one per acre, as well as elevations and topography for all proposed developments, shall be submitted with plans and reviewed by the Department of Environmental Control, as part of the Design Review process.

**E. Issuance of Building Permits and Certificates of Occupancy**

Building Permits and Certificates of Occupancy shall be issued as provided in Chapter 89 of the Town Code, provided that the applicant has fully complied with the provisions of this Article XLII and all other applicable regulations.

**F. Required Town Board Approval**

As required by the terms of the Generic Environmental Impact Statement, pursuant to Section 503(h) of the General Municipal Law, the Town of Babylon Department of Planning and Development (the Planning Department) shall notify the Town Board upon receipt of any application for a permit for building construction or alteration, or for a certificate of occupancy for a structure within the Wyandanch Urban Renewal Area for a period of three years from the approval of the Final Wyandanch Downtown Revitalization Plan by the Town Board on May 22, 2009 or of any amendments or modifications thereto. During this period, the Planning Department shall not issue a building construction or alteration permit, or a certificate of occupancy for a structure or use within the Urban Renewal Area, without having first obtained the consent of the Town Board, unless the construction, alteration, or use is necessary for the immediate protection of public health and safety. The Town Board shall consent to the issuance of certificates and permits upon the determination that the proposed construction, alteration, or use is not inconsistent with the Plan or any amendments or modifications thereto. The Town Board shall have the power to reject any proposals which are inconsistent with the Plan in order to preserve the integrity of the Plan.

**G. Streets, Sidewalks, and Public Improvements**

All construction, improvements, and alterations to streets, sidewalks, utilities, parks, and other public facilities shall be reviewed prior to construction by the Department of Public Works and the Commissioner to ensure compliance with this article.

**H. Non-Conforming Uses**

All regulations governing non-conforming uses contained in the Town of Babylon Code shall apply, including the following:

- (1) The term "legal nonconforming use," as used in this article, shall mean any nonconforming use which, at the time such use was commenced, was maintainable as a matter of right under the statutes, ordinances, and general rules of law then in effect in the Town of Babylon.
- (2) Any legal nonconforming use may be continued; provided, however, that a legal nonconforming use shall not be abandoned or changed unless changed to a conforming use. A legal nonconforming use, if changed to a conforming use, may not be thereafter changed to any nonconforming use.
- (3) A nonconforming use which shall be abandoned and/or discontinued for a period of more than six months shall thereafter be determined to be illegal and in violation of the provisions herein. Upon the expiration of the aforesaid six month period, the said use may not be reinstated.

- (4) No legal nonconforming use may be extended, except as provided in this section. In any building wherein the legal nonconforming use occupies more than 50% of the existing floor area, the legal nonconforming use may be extended to the entire floor area.
- (5) A building arranged, designed or devoted to a nonconforming use at the time of the adoption of this section may not be reconstructed or structurally altered to an extent exceeding in aggregate 25% of the total floor area of the building, unless the use of said building is changed to a conforming use, notwithstanding the provisions of H.(4) of this section.
- (6) A special exception use permit from the Town Board shall be required for the expansion of a nonconforming use not in conformance with the provisions of this article.

**§213-496 Subdivision of Land Under This Article**

- A. Land may be subdivided into lots and blocks only as permitted by the Regulating Plan or by subdivision approval by the Planning Board if determined by the Commissioner to be consistent with the regulations and intent of this article. The Planning Board shall not require a preliminary plat for any subdivision application which complies with this article.
- B. Town owned parcels may be exempt from Planning Board requirements and can be subdivided by map or deed, as may be required, and if determined to be consistent with the regulations and intent of this article.

**§213-497 Amendment of This Article**

- A. This article may be amended as provided in Chapter 215 of the Town Code. Prior to adopting an amendment, the Town Board shall refer such proposed amendment to the Commissioner for comment. If the Commissioner does not comment within 30 days of such referral, the Town Board may enact the amendment without receiving such comment.

**RESOLUTION NO. 114 FEBRUARY 1, 2023  
SCHEDULING A PUBLIC HEARING ON DESIGNATING THE PREMISES KNOWN AS  
301 MERRITT AVENUE, WYANDANCH, NY 11798, SCTM#0100-039.00-04.00-054.001, A PUBLIC NUISANCE, AUTHORIZING  
THE BOARDING UP OF SAID PREMISES AND AUTHORIZING THE TOWN ATTORNEY TO COMMENCE LITIGATION**

BE IT RESOLVED, by the Town Board of the Town of Babylon that a Public Hearing be held on the 15<sup>th</sup> day of February, 2023 at 3:00 p.m., prevailing time, at Babylon Town Hall, 200 E. Sunrise Hwy, N. Lindenhurst, NY 11757, to consider the whether the premises located at 301 Merritt Avenue, Wyandanch, NY 11798 SCTM#0100-039.00-04.00-054.001 is a public nuisance pursuant to the Town Code of the Town of Babylon Article III, Chapter 165, Public Nuisances; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon is directed to publish notice of said public hearing in one of the official newspapers of the Town.

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 115 FEBRUARY 1, 2023  
DECLARING EQUIPMENT SURPLUS**

BE IT RESOLVED, by the Town Board of the Town of Babylon, upon the recommendation of the Commissioner of the Department of Public Works, that the following obsolete equipment be and is hereby declared surplus and be auctioned or discarded:

MAKE/MODEL	SERIAL NO.	TOB No.
trade-in Miller SRH-444 Welder	JC621267	11829

The above **Consensus Agenda Resolution** was offered by Councilman Martinez and seconded by Councilman McSweeney

VOTES: 5 YEAS: 5 NAYS: 0

The above resolution was thereupon declared duly adopted.

**RESOLUTION NO. 116 FEBRUARY 1, 2023  
ADOPTING LOCAL LAW NO. OF 2023 - AMENDING THE CODE OF THE  
TOWN OF BABYLON, CHAPTER 89 (BUILDING CONSTRUCTION), ARTICLE VII (UNSAFE BUILDINGS)**

The following resolution was offered by Councilman McSweeney and seconded by Councilman Gregory

WHEREAS, the Town Board of the Town of Babylon having duly called and held a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 18<sup>th</sup> day of January, 2023 upon the question of enactment of Local Law No. 4 of 2023 of the Town of Babylon, Suffolk County, New York, being a Local Law amending Chapter 89 of the Code of the Town of Babylon (Building Construction), Article VII (Unsafe Buildings); and

WHEREAS, in accordance with Part 617.5(c)(26), State Environmental Quality Review (SEQR), the adoption of this Local Law is classified a Type II Action and not subject to environmental review under SEQR.

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon, that Local Law No. 4 of 2023 of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

**LOCAL LAW NO. 4 of 2023  
AMENDING CHAPTER 89 OF THE BABYLON TOWN CODE**

Section 1. Amend as follows:

**CHAPTER 89  
BUILDING CONSTRUCTION  
ARTICLE VII - UNSAFE BUILDINGS**

**§ 89-82 Penalties for offenses.**

Any person who enters or remains in any structure, building or premises that has been previously posted by an Ordinance Inspector, Building Inspector, Zoning Inspector or Fire Marshal as "unsafe, unlawful or not fit for human occupancy" pursuant to the New York State Uniform Building Code shall be guilty of a misdemeanor, and upon conviction thereof, a fine of not less than \$2,500 nor more than \$7,500 must be imposed and a term of imprisonment for a period not to exceed one year may be imposed, or both. Knowledge that the structure, building or premises had been previously posted by a Building Inspector, Zoning Inspector or Fire Marshal as "unsafe or not fit for human occupancy" is not an element of this violation, and said violation shall be one of strict liability.

ADDITIONS ARE INDICATED BY UNDERLINE  
DELETIONS ARE INDICATED BY ~~STRIKETHROUGH~~ or [ ]

Section 2. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this

local law, and it shall be construed to have been the legislative intent, to enact this local law without such unconstitutional or invalid parts therein.

**Section 3. Effective Date**

This local law shall take effect immediately upon filing in the Office of the Secretary of the State of New York.

VOTES: 5 YEAS: 5 NAYS: 0

The resolution was thereupon declared duly adopted.

**RESOLUTION NO. 117 FEBRUARY 1, 2023  
ADOPTING AMENDMENTS TO CHAPTER 3, ARTICLE II, SECTION 3-4  
OF THE TOWN OF BABYLON UNIFORM CODE OF TRAFFIC ORDINANCES**

The following resolution was offered by Councilman Gregory and seconded by Councilman Manetta

WHEREAS, the Town Board of the Town of Babylon having duly called and held a Public Hearing at Town Hall, 200 E. Sunrise Hwy., N. Lindenhurst, 11757, on the 18<sup>th</sup> day of January, 2023 at 3:00 p.m., prevailing time, upon the question amending Chapter 3, Article II, Section 3-4 of the Town of Babylon Uniform Code of Traffic Ordinances; and therefore, be it

RESOLVED AND ORDAINED that the amendments to the Uniform Code of Traffic Ordinances, as set forth herein as Exhibit "A", be and the same are hereby adopted effective immediately; and be it further

RESOLVED AND ORDAINED that the Director of Traffic Safety be authorized and directed to install, erect, remove or replace such signs or other traffic safety devices as may be required by these amendments or by the New York State Vehicle and Traffic Law.

VOTES: 5 YEAS: 5 NAYS: 0

The resolution was thereupon declared duly adopted.

**EXHIBIT "A"**

Chapter 3, Article II, Section 3-4  
[Parking, Standing, and Stopping Restrictions Designated]

**ADD to Schedule K:**

<u>Name of Street/Side Location</u>	<u>Hamlet</u>	<u>Regulation</u>	<u>Hours/Days</u>
Autumn Place/both sides/from Calvert Place North for 50 feet +/-	WB	No Standing	ALL
Autumn Place/West side from Sunrise Highway South Service Road South for 30 feet +/-	WB	No Standing	ALL
Autumn Place/East side from Sunrise Highway South Service Road south for 50 feet +/-	WB	No Standing	ALL
<u>Name of Street/Side Location</u>	<u>Hamlet</u>	<u>Regulation</u>	<u>Hours/Days</u>
Autumn Place/West side from a point 60 feet +/- south of Sunrise Highway South Service Road	WB	No Parking	9:00 p.m. to 6:00 a.m.
Autumn Place/West side from a point 85 feet +/- South of Sunrise Highway South Service Road South for 43 feet +/-	WB	No Parking	ALL
Autumn Place/West side/ from a point 128 feet +/- south of Sunrise Highway South Service Road South for 40 feet +/-	WB	No Parking	9:00 p.m. 6:00 a.m.
Manor Avenue/South side/from North Emerson Avenue west for 80 feet +/-	CO	No Standing	ALL
Manor Avenue/North side/from North Emerson Avenue west for 55 feet +/-	CO	No Standing	ALL
Long Island Avenue/ North side From a point 104 feet +/- east of Doe Street east for 130 feet +/-	WY	20 Minute Parking	ALL
North 15th Street/East side/from Washington Avenue north for 30 feet +/-	WY	No Standing	ALL

**DELETE from Schedule K:**

<u>Name of Street/Side Location</u>	<u>Hamlet</u>	<u>Regulation</u>	<u>Hours/Days</u>
North 15th Street/East side/from Washington Avenue north for 110 feet +/-	WY	No Standing	ALL

**RESOLUTION NO. 118 FEBRUARY 1, 2023  
AUTHORIZING THE EMERGENCY BOARD UP AND SECURING OF UNSAFE STRUCTURE, LOCATED AT  
7 PATTON AVE., WYANDANCH, NY 11798 SCTM NO. 0100-079.00-02.00-042.000**

The following resolution was offered by Councilman Manetta and seconded by Councilman Manetta

WHEREAS, a certain structure(s) located at **7 Patton Ave., Wyandanch, New York 11798**, bearing SCTM# **0100-079.00-02.00-042.000** has no running water as per communication with the Suffolk County Water Authority, wherein the rear door is wide open and accessible, thereby presenting a nuisance to children and an imminent danger to the safety, health and welfare of the surrounding community residents; and

WHEREAS, said property is improperly secured and constitutes an attractive nuisance to children as well as other residents of the community; and

WHEREAS, it appears that, unless said structure is immediately secured and boarded a clear and imminent danger to the life, safety and health of the surrounding residents and the general public will exist; and

WHEREAS, §92-10 of the Town Code provides for the emergency correction of said unsafe structure and the assessment of the costs of said correction against the property,

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Babylon does hereby order the emergency securing and board up of the premises located at **7 Patton Ave., Wyandanch, NY bearing SCTM # 0100-079.00-02.00-042.000** to eliminate safety hazard, in order to rectify the

above noted problems and abolish any public nuisance resulting from the unsafe condition of said structure, in accordance with the Conclusions and Recommendations set forth in the inspector's report dated January 23, 2023 located in the Code Enforcement Department; and be it further RESOLVED, that the Department of Public Works shall undertake the necessary securing, removal and cleanup; and be it further RESOLVED, that the costs of securing be assessed against the premises in accordance with Town Code §92-9.

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The resolution was thereupon declared duly adopted.

**RESOLUTION NO. 119 FEBRUARY 1, 2023  
AUTHORIZING THE EMERGENCY BOARD UP AND SECURING OF UNSAFE STRUCTURE, LOCATED AT  
120 MANHATTAN AVE., W. BABYLON NY 11704 SCTM NO. 0100-140.00-02.00-003.000**

The following resolution was offered by Councilman Martinez and seconded by Councilman McSweeney

WHEREAS, a certain structure(s) located at **120 Manhattan Ave., West Babylon, New York 11704**, bearing **SCTM# 0100-140.00-04.00-003.000** has no running water as per communication with the Suffolk County Water Authority, wherein the rear door is wide open and accessible, the dwelling is in deplorable condition, thereby presenting a nuisance to children and an imminent danger to the safety, health and welfare of the surrounding community residents; and

WHEREAS, said property is improperly secured and constitutes an attractive nuisance to children as well as other residents of the community; and

WHEREAS, it appears that, unless said structure (rear door) is immediately secured and boarded a clear and imminent danger to the life, safety and health of the surrounding residents and the general public will exist; and

WHEREAS, §92-10 of the Town Code provides for the emergency correction of said unsafe structure and the assessment of the costs of said correction against the property,

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Babylon does hereby order the emergency securing and board up of the premises located at **120 Manhattan Ave., W. Babylon, NY bearing SCTM # 0100-140.00-04.00-003.000** to eliminate safety hazard, in order to rectify the above noted problems and abolish any public nuisance resulting from the unsafe condition of said structure, in accordance with the Conclusions and Recommendations set forth in the inspector's report dated January 18, 2023 located in the Code Enforcement Department; and be it further

RESOLVED, that the Department of Public Works shall undertake the necessary securing, removal and cleanup; and be it further

RESOLVED, that the costs of securing be assessed against the premises in accordance with Town Code §92-9.

VOTES: 5 \_\_\_\_\_ YEAS: 5 \_\_\_\_\_ NAYS: 0 \_\_\_\_\_

The resolution was thereupon declared duly adopted.

**GENERAL PUBLIC COMMENT  
Wednesday, February 1, 2023 at 3:00 P.M.**

Supervisor Schaffer: Wanted to mention that the town is further looking into the property on August Road that was the subject of some discussion at a previous board meeting and has been the subject of further code enforcement action in regards to a possible Airbnb situation and an alleged illegal rental that we've written summons for.

Being no further business before the Board, the meeting adjourned at 3:15 pm on the motion of Councilman Gregory, seconded by Councilman Manetta.

  
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Geraldine Compitello, Town Clerk

/jt