

Board of Trustees  
Village of Tarrytown  
Regular Meeting No. 28  
February 6, 2017  
8:00 p.m.

PRESENT: Mayor Fixell presiding; Trustees: Butler, Hoyt, McGee, McGovern and Zollo;  
Village Treasurer Hart; Village Attorney Silverberg and Village Clerk Booth

ABSENT: Trustee Brown

MOMENT OF SILENCE – BRIDGET CONNELLY

Mayor Fixell noted that Bridget Connelly passed away on January 30, 2017. Bridget was a life-long resident of the Village of Tarrytown and a very active member and former Captain of the Tarrytown Volunteer Ambulance Corps. On behalf of the Board of Trustees, we send our deepest sympathy to the Connelly family.

REPORTS

Mayor Fixell noted the following:

- Monday, February 20<sup>th</sup>, is Presidents' Day and the Village offices will be closed. There will be no garbage collection on Monday, February 20<sup>th</sup>. If you have garbage collection on Monday, it will be picked up on Tuesday. If you have garbage collection on Tuesday, it will be picked up on Wednesday. All recycling will be picked up on Thursday. The Board of Trustees will hold their next meeting on Tuesday, February 21, 2017.
- Richard Slingerland has been selected as Tarrytown's new Village Administrator. Mr. Slingerland was the Village Administrator in Tarrytown from 1999 – 2001. He will begin on April 3<sup>rd</sup> and work with Michael Blau for two weeks before Michael retires on April 14<sup>th</sup>. The Board of Trustees is very pleased with the appointment of Richard Slingerland; he's experienced, smart and a very nice man.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD ONLY ON AGENDA ITEMS. SPEAKERS SHALL HAVE THREE (3) MINUTES TO ADDRESS THE BOARD OF TRUSTEES

Mayor Fixell asked if anyone wanted to address the Board on agenda items. No one appeared.

PUBLIC HEARING – CHAPTER 269, TAXATION (adopted)

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 6th day of February, 2017, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear, discuss and to act upon an amendment to Chapter 269 entitled "Taxation". A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the Code of the Village of Tarrytown, Chapter 269 entitled "Taxation", to add a new Article IX to establish a Hotel/Motel Occupancy Tax in the Village of Tarrytown.

SECTION 1. LEGISLATIVE INTENT.

The Board of Trustees adopted Home Rule Requests in 2010, 2013, 2014, 2015 and 2016 requesting the New York State Legislature authorize the Village of Tarrytown, as well as the Villages of Ardsley, Dobbs Ferry, Elmsford, Hastings-on-Hudson, Irvington, Sleepy Hollow and the Town of Greenburgh to impose a three percent (3%) hotel/motel occupancy tax pursuant to a Local Law adopted by the said municipalities. The Home Rule Request noted that the Hotel/Motel Occupancy Tax will provide the Villages and the Town with another source of funds to provide much needed services to our residents that are becoming

much more difficult to provide due to the economic situation impacting local governments. The legislation has been adopted by the New York State legislature and signed into law by Governor Cuomo. The legislation requires that each municipality authorized to institute such a Hotel/Motel Occupancy Tax adopt a Local Law which establishes the level of tax and the rules and regulations governing the collection of the tax and other procedures relating to the tax. This amendment shall implement the Hotel/Motel Occupancy Tax and establish all of the rules and procedures relating thereto.

Material to be deleted appears in parenthesis [ ], material to be added is in **bold typeface**.

## SECTION 2. ESTABLISHMENT OF NEW ARTICLE IX “Hotel/Motel Occupancy Tax”

### **Article IX. Hotel/Motel Occupancy Tax**

#### **§ 269-46. Definitions.**

For the purposes of this article, the following definitions shall apply:

**EFFECTIVE DATE.** March 1, 2017.

**HOTEL.** Any building or portion of any building which is used and kept open as such for the overnight lodging of guests, including, but not limited to an apartment hotel, conference/training center, a motel or a boardinghouse, whether or not meals are served.

**OCCUPANCY.** The use or possession or the right to the use or possession of any Room in a Hotel.

**OCCUPANT.** A natural person who, for a consideration, uses, possesses or has the right to use or possess any Room in a Hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

**OPERATOR.** Any Person operating a Hotel in the Village of Tarrytown, including, but not limited to, an owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other Person otherwise operating such Hotel.

**PERSON.** An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other Person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing.

**RENT.** The consideration received for Occupancy valued in money, whether received in money or otherwise, for the Occupancy of a Room in a Hotel for any period of time.

**RETURN.** Any Return filed or required to be filed as herein provided.

**ROOM.** Any Room or Rooms or suite of Rooms with sleeping accommodations, whether or not such accommodations are used, of any kind in any part or portion of a Hotel which is available for or let out for any purpose.

**TREASURER.** Village Treasurer of the Village of Tarrytown.

#### **§ 269-47. Tax imposed.**

Beginning on March 1, 2017, there is hereby imposed and there shall be paid a tax of 3% upon the Rent for every Occupancy of a Room or Rooms in a Hotel in this Village, except that the tax shall not be imposed upon an Exempt Occupant, or as otherwise provided herein.

#### **§ 269-48. Exempt organizations.**

Except as otherwise provided in this section, any use or Occupancy by any of the following shall not be subject to the tax imposed by this article:

- A. The State of New York, or any of its agencies or instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the state.
- B. The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation.
- C. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; provided, however, that nothing in this subsection shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this subsection.

**§ 269-49. Territorial limits.**

The tax imposed by this article shall apply only within the territorial limits of the Village of Tarrytown.

**§ 269-50. Registration; certificate of authority to collect.**

A. Within 10 days after the Effective Date of this article or, in the case of Operators commencing business after such Effective Date, within three days after such commencement or opening, every Operator shall file with the Treasurer a certificate of registration on a form prescribed by the Treasurer.

B. The Treasurer shall, within five days after such registration, issue without charge to each Operator a certificate of authority empowering such Operator to collect the tax from the Occupant and a duplicate thereof for each additional Hotel of such Operator. Each certificate or duplicate shall state the Hotel to which it is applicable. Such certificate of authority shall be prominently displayed by the Operator in such manner that it may be seen and come to the notice of all Occupants and Persons seeking Occupancy. Such certificate shall be non-assignable and nontransferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the Hotel named or upon its sale or transfer.

**§ 269-51. Administration and collection.**

A. The tax imposed by this article shall be administered and collected by the Treasurer or such other Village employee as he/she may designate by such means and in such manner as are other taxes which are now collected and administered or as otherwise provided by this article.

B. The tax to be collected shall be stated and charged separately from the Rent and shown separately on any record thereof, at the time when the Occupancy is arranged or contracted for and charged for, and upon every evidence of Occupancy or any bill or statement of charges made for said Occupancy issued or delivered by the Operator, and the tax shall be paid by the Occupant to the Operator as trustee for and on account of the Village, and the Operator shall be liable for the collection thereof and for the tax. The Operator and any officer of any corporate Operator shall be personally liable for the tax collected or required to be collected under this article, and the Operator shall have the same right in respect to collecting the tax from the

Occupant, or in respect to nonpayment of the tax by the Occupant, as if the tax were part of the Rent for the Occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he/she may have in the event of nonpayment of the Rent by the Occupant; provided, however, that the Treasurer or employees or agents duly designated by him/her shall be joined as a party in any action or proceeding brought by the Operator to collect or enforce collection of the tax.

C. The Treasurer may, whenever he/she deems it necessary for the proper enforcement of this article, provide by regulation that the Occupant shall file Returns and pay directly to the Treasurer the tax imposed at such times as Returns are required to be filed and payment made over by the Operator.

D. The tax imposed by this article shall be paid upon any Occupancy on and after March 1, 2017, although such Occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where Rent is paid or charged or billed or falls due on either a weekly, monthly or other term basis, the Rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after March 1, 2017. Where any tax has been paid hereunder upon any Rent which has been ascertained to be worthless, the Treasurer may, by regulation, provide for credit and/or refund of the amount of such tax upon application therefor as provided in § 269-57 of this article.

E. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all Rents are subject to tax until the contrary is established, and the burden of proving that a Rent for Occupancy is not taxable hereunder shall be upon the Operator or Occupant. Where an Occupant claims exemption from the tax under the provisions of § 269-48 of this article, the Rent shall be deemed taxable hereunder unless the Operator shall receive from the Occupant claiming such exemption a copy of a New York State sales tax exemption certificate.

#### **§ 269-52. Records to be kept.**

Every Operator shall keep records of every Occupancy and of all Rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Treasurer or his/her duly authorized agent or employee and shall be preserved for a period of three years, except that the Treasurer may consent to their destruction within that period or may require that they be kept together.

#### **§ 269-53. Filing of Returns.**

A. Every Operator shall file with the Treasurer a Return of Occupancy and of Rents and of the taxes payable thereon for the three-month periods ending the last day of February, May, August and November on and after March 1, 2017, except that a Return for the period April 1, March 1, 2017 through March 31, 2017, shall be separately filed. Such Returns shall be filed within 20 days from the expiration of the period covered thereby. The Treasurer may permit or require Returns to be made for other periods upon such dates as he/she may specify. If the Treasurer deems it necessary in order to ensure the payment of the tax imposed by this article, he/she may require Returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he/she may specify.

B. The forms of Return shall be prescribed by the Treasurer and shall contain such information as he/she may deem necessary for the proper administration of this article. The Treasurer may require amended Returns to be filed within 20 days after notice and to contain the information specified in the notice.

**C. If a Return required by this article is not filed, or if a Return is incorrectly filed or is insufficient on its face, the Treasurer shall take such steps as he/she deems necessary to enforce the filing of such Return or of a corrected Return.**

**§ 269-54. Determination of tax; reviewability.**

**Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 30 days after giving the State of New York notice of such final determination, provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:**

**A. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local laws or regulations, shall be first deposited and there shall be filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or**

**B. At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interests or penalties as a condition precedent to the application.**

**§ 269-55. Payment of taxes.**

**At the time of filing a Return of Occupancy and of Rents, each Operator shall pay to the Treasurer the taxes imposed by this article upon the Rents required to be included in such Return, as well as all other moneys collected by the Operator acting or purporting to act under the provisions of this article; even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the Operator and payable to the Treasurer on the date prescribed herein for the filing of the Return for such period, without regard to whether a Return is filed or whether the Return which is filed correctly shows the amount of Rents and taxes due thereon. Where the Treasurer in his/her discretion deems it necessary to protect revenues to be obtained under this article, he/she may require any Operator required to collect the tax imposed by this article to file with him/her a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Treasurer may find to secure the payment of any tax and/or penalties and interest due or which may become due from such Operator. In the event that the Treasurer determines that an Operator is to file such bonds, he/she shall give notice to such Operator to that effect, specifying the amount of the bond required. The Operator shall file such bond within five days after the giving of such notice unless, within such five days, the Operator shall request in writing a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Such determination shall be final and shall be complied with within 15 days after the giving of notices thereof. In lieu of such bond, securities approved by the Treasurer or cash in such amount as he/she may prescribe may be deposited with him/her, which shall be kept in the custody of the Treasurer, who may at any time, without notice of the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him/her at public or private sale without notice to the depositor thereof.**

**§ 269-56. Disposition of revenues.**

All revenue resulting from the imposition of the tax under this article shall be paid into the treasury of the Village and shall be credited to and deposited in the general fund of the Village.

**§ 269-57. Refunds.**

A. In the manner provided in this section, the Treasurer shall refund or credit, without interest, any tax penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Treasurer, he/she shall state his/her reason therefor in writing. Such application may be made by the Occupant, Operator or other Person who has actually paid the tax. Such application may also be made by an Operator who has collected and paid over such tax to the Treasurer, provided that the application is made within one year of the payment to the Operator, but no actual refund of moneys shall be made to such Operator until it shall first establish to the satisfaction of the Treasurer, under such regulations as the Treasurer may prescribe, that it has repaid to the Occupant, or other person who has actually paid the tax, the amount for which the application for refund is made. The Treasurer may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.

B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of, and the Treasurer may receive evidence with respect thereto. After making his/her determination, the Treasurer shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within 30 days after the giving of the notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that, if such proceedings be dismissed or the tax confirmed, the petitioner will pay costs and charges which may accrue in the prosecution of such proceeding.

C. Under this section a Person shall not be entitled to a revision, refund or credit of a tax, interest or penalty which had been determined to be due pursuant to the provisions of § 269-60 of this article where it has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail itself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Treasurer made pursuant to § 269-60 of this article unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Treasurer after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

**§ 269-58. Reserves.**

In cases where the Occupant or Operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to him/her on his/her application for refund, the Treasurer shall have the option of crediting future tax payments to meet the cost of any settlements or judgments or, at his/her option, may, in the first instance, set up appropriate reserves to meet any decision adverse to the Village.

**§ 269-59. Remedies exclusive.**

The remedies provided by §§ 269-54 and 269-57 of this article shall be the exclusive remedies available to any Person for the review of tax liability imposed by this article, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs as provided in § 269-55 of this article.

**§ 269-60. Penalties and interest.**

A. Any Person failing to file a Return or to pay or pay over any tax to the Treasurer within the time required by this article shall be subject to a penalty of 5% of the amount of tax due per month or any fraction of a month to a maximum of 25% for each year; plus interest at the rate of 1% of such tax for each month of delay or fraction of a month after such Return was required to be filed or such tax became due; but the Treasurer, if satisfied that the delay was excusable, may remit all or any part of such penalty, but not interest. Such net penalties and interest shall be paid and disposed of in the same manner as other revenues from this article. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this article.

B. Any Operator or Occupant and any officer of an Operator or Occupant failing to file a Return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any Return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article which is willfully false, and any Operator and any officer of a corporate Operator willfully failing to file a bond required to be filed pursuant to § 269-55 of this article, or failing to file a registration certificate and such data in connection therewith as the Treasurer may by regulation or otherwise require, or failing to display or surrender the certificate of authority as required by this article or assigning or transferring such certificate of authority; and any Operator or any officer of a corporate Operator willfully failing to charge separately from the Rent the tax herein imposed or willfully failing to state such tax separately on any evidence of Occupancy and on any bill or statement or receipt of Rent issue or employed by the Operator or willfully failing or refusing to collect such tax from the Occupant; any Operator or any officer of a corporate Operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this article, and any such Person or Operator failing to keep records required by this article, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of up to \$1,000, imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate Operator shall be personally liable for the tax collected or required to be collected by such corporation under this article and penalties and interest thereon and subject to the fines and imprisonment herein authorized.

C. The certificate of the Treasurer to the effect that a tax has not been paid, that a Return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

D. Except in the case of a willfully false or fraudulent Return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a Return, provided, however, that where no Return has been filed as provided by law, the tax may be assessed at any time.

**§ 269-61. Returns to be secret.**

A. It shall be unlawful, except in accordance with proper judicial order or as otherwise provided to the fullest extent permitted by law, for the Treasurer or employee or designee of the Treasurer to divulge or make known in any manner the Returns or other information relating to the business of a taxpayer contained in any Return required under this article. The officers charged with the custody of such Returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this article or on behalf of any party to any action or proceeding under the provisions of this article when the Returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said Returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his/her duly authorized representative of a certified copy of any Return filed in connection with his/her tax nor to prohibit the publication of statistics so classified to prevent the identification of particular Returns and items thereof or the inspection by the Village Attorney or other legal representatives of the Village or by the District Attorney of any county of the Return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the Treasurer permits them to be destroyed.

B. Any violation of Subsection A of this section shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender is an officer or employee of the Village, he/she may be, at the discretion of the Village Administrator, dismissed from office and be incapable of holding any further Village office as may be determined according to law.

**§ 269-62. Notices and limitations of time.**

A. Any notice authorized or required under the provisions of this article may be given to the Person to whom it is intended in a postpaid envelope addressed to such Person at the address given in the last Return filed by him/her pursuant to the provisions of this article or in any application made by him/her or, if no Return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the Person to who addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence five days after the date of mailing of such notice.

B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the Village to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false, fraudulent Return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a Return; provided, however, that in the case of a Return which should have been filed and has not been filed as provided by law, the tax may be assessed at any time.

C. Where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.



**§ 269-63. Severability.**

**If any provision of this article, or the application thereof to any Person or circumstance, is held invalid, the remainder of this article, and the application of such provision to other Persons or circumstances, shall not be affected thereby.**

**SECTION 4. EFFECTIVE DATE**

This local law shall take effect on March 1, 2017.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF TARRYTOWN**

Trustee McGovern moved, seconded by Trustee McGee and unanimously carried, that the hearing be opened.

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the hearing be closed.

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Code of the Village of Tarrytown, Chapter 269 "Taxation", to add a new Article IX to establish a Hotel/Motel Occupancy Tax in the Village of Tarrytown.

WHEREAS, a public hearing was held for the proposed action on February 6, 2017; and

WHEREAS, a notice of public hearing was published in the Journal News on January 20, 2017; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that the Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby adopt Local Law No. 1 of 2017.

**PUBLIC HEARING – CHAPTER 291, VEHICLES AND TRAFFIC (adopted)**

**PLEASE TAKE NOTICE** that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 6th day of February, 2017, at 8 PM, in the Municipal Building, One Depot Plaza, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to Chapter 291 entitled "Vehicles and Traffic" of the Code of the Village of Tarrytown. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A **LOCAL LAW** to amend Chapter 291 entitled “Vehicles and Traffic”, Article VI, Permit Parking, Section 52, Areas Reserved for Parking Permit Holders.

SECTION 1. LEGISLATIVE INTENT.

The Board of Trustees is aware that there are a number of on-street parking spaces with long-term parking meters, especially on Cortlandt Street, that remain empty throughout the day. The Board of Trustees is also aware that during the non-summer months, there is a high demand for parking in the various parking lots that service the Metro North Railroad Station. This amendment is designed to provide for flexibility in the use of specific on-street parking spaces served by long-term parking meters by permitting the use of the parking spaces by both permit parking holders and parkers who are desirous of making a daily payment for the parking meters.

Material to be deleted appears in [parenthesis], material to be added is in **bold typeface**.

SECTION 2. Amendment to §291-52 “Areas Reserved for Parking Permit Holders”.

§ 291-52. Areas reserved for parking permit holders.

A. The following off-street parking areas shall be [reserved exclusively] **available** for holders of parking permits issued under §§ 291-[45] **46** through 291-51 of this article. It shall be unlawful for any person to park any vehicle in such areas unless such person is the holder of a valid parking permit for such vehicle.

(1).[A.] Resident parking permits: Depot Plaza Parking Lot, McKeel Avenue Parking Lot, South Broadway Parking Lot, South Washington Street Parking Lot, South Washington Street Parking Lot West, Green Street North Parking Lot, Green Street South Parking Lot, West Main Street Parking Lot, Losee Park Parking Lot, [and] West Elizabeth Street Parking Lot.

(2).[B.] Nonresident parking permits. Designated permit zones west of the railroad tracks.

B. The following on-street parking areas shall be available for holders of parking permits issued under §§ 291-46, 291-47 and 291-49 of this article. It shall be unlawful for any person to park any vehicle in such areas unless such person is the holder of a valid parking permit for such vehicle or pay the parking meter associated with that parking space or at the parking meter pay machines.

(1). The long-term parking meters on Cortlandt Street and the lower portion of Main Street.

C. The following on-street parking areas shall be reserved exclusively for holders of parking permits issued under § 291-52 of this article. It shall be unlawful for any person to park any vehicle in such areas unless such person is the holder of a valid parking permit for such vehicle.

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF TARRYTOWN**

Trustee Zollo moved, seconded by Trustee McGovern and unanimously carried, that the hearing be opened.

Trustee Zollo moved, seconded by Trustee McGovern, and unanimously carried, that the hearing be closed.

Trustee McGovern moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby amend the Code of the Village of Tarrytown, Chapter 291-52, "Areas Reserved for Parking Permit Holders" to provide for flexibility in the use of specific on-street parking spaces served by long-term parking meters by permitting the use of the parking spaces by both permit parking holders and parkers who are desirous of making a daily payment for the parking meters.

WHEREAS, a public hearing was held for the proposed action on February 6, 2017; and

WHEREAS, a notice of public hearing was published in the Journal News on January 20, 2017; and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that the Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby adopt Local Law No. 2 of 2017.

#### APPOINTMENT OF RECREATION ASSISTANT

Trustee Zollo moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby appoint Ileana Gonzalez to the position of Recreation Assistant, Step 6, effective February 7, 2017 at an annual salary of \$45,934. This appointment is subject to all applicable civil service rules and regulations.

#### APPOINTMENT OF MEMBERS OF THE ENVIRONMENTAL ADVISORY COUNCIL

Trustee Hoyt moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby appoint Kevin S. Miller and Dean Gallea as members of the Environmental Advisory Council for a term to expire in December of 2018.

#### FIRE DEPARTMENT MEMBERSHIP CHANGE

Trustee Zollo moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the following Fire Department membership change recommended at the January

17, 2017 Board of Fire Wardens meeting: Membership: Nina Sousa has been elected to active membership at Riverside Hose Fire Company.

ACKNOWLEDGEMENT OF RECEIPT OF THE 2016 TARRYTOWN VOLUNTEER FIRE DEPARTMENT SERVICE AWARD (PENSION) PROGRAM ANNUAL REPORT REGARDING QUALIFYING POINTS RECEIVED

Trustee McGovern moved, seconded by Trustee Butler, that the following resolution be approved. Motion carried, all voting “aye” with the exception of Trustees Hoyt and McGee who abstained. Approval: 4-0-2

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby acknowledge receipt of the Tarrytown Volunteer Fire Department 2016 annual report of points achieved by respective members of the Fire Department for qualification for Village contribution to the Fire Department members service award program, which report shall be posted for public inspection and comment for 30 days prior to Board of Trustees’ consideration of approving submission of the report to the pension fund underwriter, subject to final sign-off by the Mayor.

TAX CERTIORARIS – 39-51 NORTH BROADWAY

Trustee Hoyt moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the settlement of the tax certiorari case with 39-51 North Broadway, as outlined in the Village’s Tax Certiorari Attorney’s memorandum dated January 6, 2017; and

BE IT FURTHER RESOLVED that the Board of Trustees may fund this tax certiorari from a future financing resolution.

TAX CERTIORARIS – AMERADA HESS/SPEEDWAY

Trustee Butler moved, seconded by Trustee McGovern, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the settlement of the tax certiorari case with Amerada Hess/Speedway, 386 South Broadway, as outlined in the Village’s Tax Certiorari Attorney’s memorandum dated January 6, 2017; and

BE IT FURTHER RESOLVED that the Board of Trustees may fund this tax certiorari from a future financing resolution.

TAX CERTIORARIS – CARRIAGE HOUSES AT HUDSON HARBOR CONDOMINIUM

Trustee Butler moved, seconded by Trustee Zollo, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the settlement of the tax certiorari case with Carriage Houses at Hudson Harbor Condominium, Rivers Edge Drive, as outlined in the Village’s Tax Certiorari Attorney’s memorandum dated January 6, 2017; and

BE IT FURTHER RESOLVED that the Board of Trustees may fund this tax certiorari from a future financing resolution.

TAX CERTIORARIS – 13 BAYLIS COURT

Trustee Zollo moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the settlement of the tax certiorari case with Gerardo and Mark Colonna, 13 Baylis Court, as outlined in the Village's Tax Certiorari Attorney's memorandum dated January 6, 2017; and

BE IT FURTHER RESOLVED that the Board of Trustees may fund this tax certiorari from a future financing resolution.

TAX CERTIORARIS – 17-19 NORTH BROADWAY

Trustee Hoyt moved, seconded by Trustee Butler, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the settlement of the tax certiorari case with Jafri/U.S. Potential, 17-19 North Broadway, as outlined in the Village's Tax Certiorari Attorney's memorandum dated January 6, 2017; and

BE IT FURTHER RESOLVED that the Board of Trustees may fund this tax certiorari from a future financing resolution.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON JANUARY 17, 2017

Trustee McGee moved, seconded by Trustee Zollo, that the following resolution be approved. Motion carried, all voting "aye" with the exception of Mayor Fixell who abstained. Approval: 5-0-1

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the minutes of the regular meeting of the Board of Trustees held on January 17, 2017 as submitted by the Village Clerk.

APPROVAL OF THE MINUTES OF THE SPECIAL MEETING OF THE BOARD OF TRUSTEES HELD ON JANUARY 30, 2017

Trustee McGovern moved, seconded by Trustee McGee, that the following resolution be approved. Motion carried, all voting "aye" with the exception of Trustee Butler who abstained. Approval: 5-0-1

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve the minutes of the special meeting of the Board of Trustees held on January 30, 2017 as submitted by the Village Administrator.

APPROVAL OF AUDITED VOUCHERS

Trustee Hoyt moved, seconded by Trustee McGee, and unanimously carried, that the following resolution be approved: Approved: 6-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown does hereby approve Abstract No. 14 of Audited Vouchers to be paid in the following amounts:

General	\$ 468,640.98
Water	50,315.86
Sewer Fund	0.00
Capital	149,663.97
Library	13,762.34
Trust & Agency	<u>3,480.32</u>
Total	\$ 685,863.47

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD. SPEAKERS HAVE FIVE (5) MINUTES BEFORE YIELDING TO THE NEXT SPEAKER; THEN THREE (3) MINUTES FOR ADDITIONAL COMMENTS

Felice Gelman, 91 Cobb Lane, stated that last week there was a rally of approximately 1,000 people in Sleepy Hollow speaking about the need to keep immigrants and refugees safe with the recent federal government step up of deportation of undocumented immigrants. Ms. Gelman felt that Mayor Fixell's comments didn't go far enough. Mayor Fixell speaks about innocent people, but under the federal view of undocumented immigrants, no one is innocent. New York State Attorney General, Eric Schneiderman has issued guidance to communities who are interested in creating a safe climate for refugees. Ms. Gelman provided Mayor Fixell with guidelines from New York State Attorney General Eric Schneiderman including draft municipal resolutions and legal opinions. Ms. Gelman hopes the Village Board will take some action on this in the near future.

Ian Schwartz, Captain of the Tarrytown Volunteer Ambulance Corps (TVAC), noted that TVAC needs additional volunteer members. 2016 was a very busy year for TVAC; responded to over 1,200 calls, they guarantee the ambulance is always staffed with a dedicated crew, saved 5 lives, delivered a baby, participated in parades and community events and first-aid stations. The current 36 volunteer members serve this community with pride. TVAC received a new state of the art ambulance, known as 81B2. TVAC supports the Village of Sleepy Hollow with mutual aid assistance whenever they need it. 2016 was a very successful year for TVAC, but not without struggle. Across the country, volunteerism of this nature has rapidly declined. Many volunteer ambulance agencies have been forced to close its doors and be replaced by paid organizations from outside of the community. Unfortunately, TVAC has been affected by this phenomenon. TVAC is not at risk for closing its doors, however, TVAC's membership has seen a significant decline in the last year and they are looking for new dedicated members to join. All training is provided; all you need is the commitment. Captain Schwartz asked the Village Board to support TVAC's effort to find members of this community who are interested in making a difference. Please spread the word of our mission and inspire others to help. TVAC is embarking on its 50<sup>th</sup> year of service to this community. TVAC's mission for the last 50 years has been to provide this community with the best possible emergency medical services available. Captain Schwarz promised that he will remain committed to that mission day and night. He thanked the Village Board for their support and any help would be appreciated.

Trustee Hoyt noted that he will arrange to put TVAC's link on the Village's website.

Mayor Fixell noted that having TVAC emergency service for the Village is wonderful; a lot of towns don't have it anymore. We have an all-volunteer group coming out all hours of the night who do great work without any fanfare. The Village of Tarrytown is very lucky to have such a wonderful group. Mayor Fixell encouraged anyone who has an interest, to join TVAC or support them in anyway that you can.

Justin Coren, 88 MacArthur Lane, stated that he has sent a letter to the Village Engineer regarding a noise complaint at American Independent Paper, 15 South Depot Plaza. The noise goes from approximately 4:30 a.m. to 6:00 a.m. when they start up all of their vehicles and begin dispatching the vehicles as well as hooking up to trailers and dropping trailers. At 7:00 a.m., they start a backhoe which is in operation and extremely noisy while it lifts and drops pallets. Mr. Coren reached out to the supervisor at that location with his concern about the noise and basically he was told "tough luck." The location now began

operating their trucks on Saturday around 7:30 a.m. Mr. Coren reached out to the police department and the building department and is still waiting for a response. In the Village Code, Noise Ordinance, Section 215-2-H, it clearly states that commercial equipment should not be operated before 8 a.m., Monday through Friday and not before 10 a.m. on Saturday. Mr. Coren hopes the Board can help with a resolution to this noise problem.

Mayor Fixell noted that the Board of Trustees will follow up on it and will speak to the Village Administrator.

#### ADJOURNMENT

Trustee Hoyt moved, seconded by Trustee Butler, and unanimously carried, that the meeting be adjourned at 8:28 p.m.

Carol A. Booth  
Village Clerk