



CITY OF BEACON, NEW YORK  
ONE MUNICIPAL PLAZA  
BEACON, NY 12508

Mayor Randy Casale  
Councilman Lee Kyriacou, At Large  
Councilman George Mansfield, At Large  
Councilwoman Peggy Ross, Ward 1  
Councilman Omar Harper, Ward 2  
Councilwoman Pam Wetherbee, Ward 3  
Councilman Ali Muhammad, Ward 4  
City Administrator Anthony Ruggiero

**City Council Workshop Agenda**  
**August 28, 2017**  
**7:00 PM**

**Workshop Agenda Items:**

1. Beacon 248 Easements
2. Tax Certiorari Settlement
3. Proposed Changes to the City Charter
4. Proposed Building Moratorium
5. Budget Amendments
6. Greenway Conservancy Trail Grant

**Upcoming Public Hearings**

1. Sept. 5 - Proposed Local Law Concerning the Disclosure of Information from City Applicants
2. Sept. 5 - Proposed Local Law Concerning Peddling and Soliciting
3. Sept. 18 - Proposed Local Law Regarding the Installation of Water and Sewer Utilities
4. Sept. 18 - Proposed Local Law Regarding Water Cross Connections

**Executive Session:**

1. Sale of Real Property

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Beacon 248 Easements**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
Beacon 248 Access Easement	Agreement
Beacon 248 Declaration of Easement	Agreement

**ACCESS EASEMENT AND MAINTENANCE AGREEMENT FOR  
PERMANENT PEDESTRIAN GREENWAY TRAIL**

This Permanent Pedestrian Greenway Trail Easement Agreement (“Easement Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between **BEACON 248 DEVELOPMENT, LLC**, with a principal place of business as 104 Rochelle Avenue, Rochelle Park, NJ 07662, (hereinafter, the “Grantor”) and the **CITY OF BEACON**, a municipal corporation having an office at One Municipal Plaza, Beacon NY, 12508, (hereinafter, the “Grantee”).

**WITNESSETH:**

**WHEREAS**, Grantor is the owner of certain property located at Tioronda Avenue in the City of Beacon, Dutchess County New York, presently identified as Tax Parcels 130200-5954-16-993482, such property having been conveyed to Grantor’s by deeds recorded in the Dutchess County Clerk’s Office as Document Nos. 02-2006-4859, and also owner of another parcel, presently identified as Tax Parcel 130200-6054-45-012574, subsequently acquired by Grantor, by virtue of a certain deed recorded in the Dutchess County Clerk’s Office as Document No \_\_\_\_\_, both such parcels having been consolidated by virtue of a subdivision and lot consolidation map filed in the Dutchess County Clerk’s Office on \_\_\_\_\_ as Filed Map Number \_\_\_\_\_, said consolidated site being hereafter identified as “the Development Site” and further described by metes and bounds on **Schedule “A”** annexed hereto; and

**WHEREAS**, the Grantor has proposed to improve the Development Site with 100 one-and two-bedroom multi-family residential units and accessory amenities (collectively, “the Project”), and has sought appropriate approvals from the City for such Project; and

**WHEREAS**, the City of Beacon City Council granted Concept Plan and Special Permit approval of the Project to Grantor on August 4, 2014 (“Special Permit Approval Resolution”) and the City of Beacon Planning Board granted Subdivision/Lot Consolidation Approval and Site Plan approval for the Project to Grantor on January 13, 2015, said resolutions having been signed by the Planning Board chair on January 19, 2015 (“Subdivision Approval Resolution” and “Site Plan Approval Resolution,” respectively); and

**WHEREAS**, the Project includes a 1,200 SF clubhouse and pool for residents, and related improvements relating to access, parking, lighting, landscaping and other improvements and amenities for the use of the residents of the Project only (the “Private Improvements”), and also contains certain physical improvements to which non-exclusive public access is being provided under the terms of this Easement Agreement (the “Public Improvements”), all as further set forth in this Easement Agreement and referred to in the Approval Resolutions, and in the plans, visual representations and application documents prepared by the Chazen Companies and submitted in support of the application, and as specifically shown on the plan set entitled, “Beacon 248 Development,” the sheets of which are set forth in the Site Plan Approval Resolution and the Subdivision Approval Resolution, such plans being originally dated June 30, 2013, and last revised, in accordance with the Approval Resolutions on \_\_\_\_\_ (“Approved Plans”); and

**WHEREAS**, Grantee is a municipal corporation, and regulates and operates a public trail system throughout the City, which includes trails on public and private lands; and

**WHEREAS**, in furtherance of State and Regional policies to encourage Greenway Trails throughout the Hudson Valley, the Grantee has undertaken activities to support the establishment and operation of the Fishkill Creek Greenway & Heritage Trail (the “FCGHT” or “the Trail”) along the Fishkill Creek within the City of Beacon, including: establishing a comprehensive document entitled “Fishkill Creek Greenway & Heritage Trail Master Plan,” (hereafter, “Trail Master Plan”) funded in part by the New York State Hudson River Valley Greenway and adopted by the Beacon City Council by Resolution dated June 17, 2013; and

**WHEREAS**, pursuant to the Trail Master Plan, the Grantee is acquiring and continues to acquire pedestrian trail easements on properties along the Fishkill Creek, including those adjacent to the Parcel, for the purpose of establishing connectivity of other existing and future pedestrian trail easements along the Fishkill Creek that together will establish the FCGHT; and

**WHEREAS**, in furtherance of the above trail policies, the Grantee, in its legislative capacity, has on April 3, 2017, enacted a uniform set of rules and regulations governing the use of all public trails in the City, to wit: Chapter 170 of the Code of the City of Beacon, covering operation and use of trails on publicly owned land, and also trails, including the FCGHT, where a trail is located on private land over which the City has acquired an easement for trail purposes on

behalf of the public, and has established supplementary rules and regulations applicable to the FCGHT in Section 170-5 thereof; and

**WHEREAS**, in furtherance of the above trail policies, the Grantee has requested the Grantor to establish a pedestrian trail on the Parcel to become part of the FCGHT, and Grantor has consented to establish a portion of such trail on its property; and

**WHEREAS**, the Subdivision Resolution requires the conveyance of a Greenway Trail Easement to Grantee providing for pedestrian public access along the Trail to be constructed over and across the Development Site, all as more particularly shown on the Approved Plans as “Greenway Trail,” and also provide Pedestrian Access to the Trail from Wolcott Avenue and from Tioronda Avenue. A reduced copy of the Subdivision Plat and Site Plan Sheet SP-2 are attached hereto and made part hereof as **Schedule B**, which show the proposed location of the Trail; and

**WHEREAS**, the parties intend that the Greenway Trail Easement granted herein shall be used only for passive, non-motorized, pedestrian recreation in the form of walking and hiking, including visual enjoyment of the Fishkill Creek corridor, with non-motorized bicycle riding on segments of the trail which have been specifically designated by the City as appropriate for joint use by bicycles and pedestrians and signed for such dual use, all such activities being within the ambit of the protections granted under New York State General Obligations Law §9-103 and New York State Environmental Conservation Law §44-0119(7), and within the coverage requirements of the Greenway Trail Insurance Program; and

**WHEREAS**, the parties further intend that the FCGHT will be open to the public only during daylight hours (dawn to dusk), and is also subject to the further rules and regulations set forth in Chapter 170 of the City Code; and

**WHEREAS**, the parties recognize that Grantee shall have the continuing authority to establish further terms and limitations on public use of the FCGHT, as it may deem appropriate.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual covenants below, and One dollar (\$1.00) and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. Construction and Location of Improvements: Grantor shall construct the Public Improvements as shown on the Approved Plans according to the construction standards set forth on the Approved Plans and according to all applicable accepted industry standards for such construction. The Public Improvements in the Easement Area include the following, all of which are shown in more detail on the Approved Plans:

- a. The pedestrian Greenway Trail improvements, running in a generally north-south direction generally parallel with the Fishkill Creek, beginning, at the south, at the shared property line with property owned by Sisters Properties LLC identified as Tax Parcel 130200-5954-16-951357, and terminating at its northerly end in a circular cul-de-sac near the northerly boundary of Tax Parcel 130200-5954-16-993482. Such improvements shall include the Trail, benches, signage, concrete walkways, and a wooden bollard at the south end of the Trail and at the north end of the Trail spur. Grantor shall construct the pedestrian Trail of a variable width of five (5) to eight (8) feet consisting of crushed stone and boardwalk, as shown on the Approved Plans, within the twenty (20) foot wide trail easement, as granted in Paragraph 3. The location of the Trail within the Easement Area shall be as shown on the Approved Plans, although the City Building Inspector may authorize variations in the route during construction based on field conditions.
- b. The structure designated as “Pavilion,” a 25 feet by 25 feet covered wooden structure located within the site, just north of the private “Clubhouse,” and just west of the trail, such Pavilion to be accessed from the Trail by means of pavement striping and a concrete sidewalk as shown on the Site Plan; and to be accessed from Wolcott Avenue via the pedestrian walkway described in the next section;
- c. Pedestrian Access to the Trail from Wolcott Avenue: An asphalt pedestrian walkway marked with pavement striping along the easterly side of the emergency access roadway, providing access from Wolcott Avenue to the Pavilion via the

pavement striping crosswalk and concrete sidewalk described above, and also providing access to the Trail via a crushed stone gravel walkway leading to the Trail (“Point B” on the Subdivision Plat;

- d. Pedestrian Access to the Trail from Tioronda Avenue: A pedestrian concrete/asphalt path leading from Tioronda Avenue in a generally east-west direction toward the Trail with concrete stairway transition at the southerly end of building 100 to reach the Trail
- e. The Grantor will construct the accessway from the designated publicly accessible Trail parking spaces to the Pavilion in a manner that is handicapped accessible. It is specifically understood that due to topographic conditions relating to the property, the Trail, and walkways to reach the Trail will not meet ADA standards and will not be handicapped accessible. If it is later determined that the Trail and walkways must be handicapped accessible, such improvements shall be made by the Grantee. In the event the location of the easement must be altered to accommodate a handicapped accessible Trail on this Development Site, Grantor agrees to execute an amendment to this Agreement to adjust the location of the easement for such purposes, provided that such adjustment does not require any building, structure, or other improvement on the Site Plan to be relocated.
- f. Parking spaces provided on the site which exceed the number required by the City of Beacon Zoning Code shall be devoted to public parking for the Trail. The Grantor will designate these excess spaces for this purpose. In no event shall less than four (4) spaces be designated for this purpose. These spaces will be located as near as may be practicable to the pavilion. The Grantor will also place two bike racks, one near the pavilion and the other near the south side of building 100. No rights are granted under this agreement for any parking by members of the public in parking spaces designated for use by tenants of the project. The City shall assist Grantor in preventing unauthorized parking in spaces designated for tenants. Without limiting the foregoing, Grantor shall have the right to have cars towed which are improperly parked in tenant spaces.

2. Timing of Construction of Improvements: Prior to the issuance of the first Certificate of Occupancy for Building 100, the Trail construction shall be completed. Prior to the issuance of the first Certificate of Occupancy for Building 400, the Trail, viewing Pavilion and public parking shall be fully operational. Upon completion, and prior to any public use, the construction of the Trail shall be inspected, approved, and accepted by the City Building Inspector, with written confirmation of such approval provided to Grantor and Grantee. Public access to the Trail shall be prohibited until such approval and until the issuance of the first Certificate of Occupancy for Building 400, as set forth in Paragraph 3.

Notwithstanding the paragraph immediately above, in the case where construction of the Project ceases, as determined by the City Building Inspector, and three (3) years has passed from the issuance of the Project's first Building Permit, Grantor shall make the Trail fully operational and open to the public, at the City's request, until such time as Project construction resumes. In this case, access shall be along the Trail, and not through the Site from Tioronda Avenue or Wolcott Avenue, and shall not include use of the public parking area or viewing Pavilion in order to ensure that the public does not have access to the partially constructed site. Such temporary access shall in no way limit Grantor's obligation that the Trail, public parking and viewing Pavilion and other Public Improvements with non-exclusive public access, shall be fully operational prior to the issuance of the first Certificate of Occupancy for Building 400. Use of such Public Improvements with non-exclusive public access may be restricted in whole or in part, as necessary to protect public safety, during periods of construction.

Notwithstanding the preceding paragraph, Grantor shall not be required to provide the temporary access to the Trail, as described above, and temporary access previously granted shall cease, if construction ceases or fails to resume due to the City's refusal to extend or renew the Special Permit or Site Plan Approval, unless such refusal is based upon Grantor's failure to timely or properly comply with a provision of the City Code or a condition of the Special Permit or this Site Plan Approval.

3. Grant of Easement: Grantor hereby grants, transfers and conveys to Grantee, for the benefit of the Grantee and the public, under the terms set forth in this agreement, and subject to the



further limitations set forth in Chapter 170 of the City Code and any more restrictive amendments thereto adopted after this conveyance is recorded, a non-exclusive easement and right-of-way over, across and upon the Trail, the Pavilion, and the walkways leading to the Trail and Pavilion, as described herein, for passive, non-motorized pedestrian walking and hiking, including visual enjoyment of the Fishkill Creek corridor, during daylight hours (dawn to dusk), under the further limitations set forth in the following paragraphs. The Trail easement shall be 20 feet wide as shown on the Approved Plans (see, Schedule B) and shall be further described by metes and bounds on an as built survey (“Trail Easement Area”). The Easement granted herein includes the right of access to the Pavilion over the walkways from Wolcott Avenue and Tioronda Avenue leading therefrom to the Trail and to the Pavilion. Additionally, a non-exclusive vehicular easement and right-of-way is hereby granted over, across and upon the paved driveway from Tioronda Avenue for the purpose of accessing at least four (4) parking spaces which are designated for vehicular parking for members of the public seeking access to the Pavilion and Trail, and to park in such designated spaces. The areas of the Trail, the pedestrian access to the Trail, the Pavillion, the pedestrian access to the Pavillion, and the parking spaces and vehicular access to the parking spaces, shall collectively be referred to herein as “the Easement Area.” The designated parking spaces are shown on the Approved Site Plan as the last four (4) parking spaces on the west side of the site immediately before the designated emergency access drive at the northern end of the site. In the event Grantor designates additional parking spaces for public use in excess of the four (4) spaces shown on the Approved Site Plan, such additional spaces shall also be subject to the non-exclusive vehicular easement and right-of-way granted herein. Designation of additional parking spaces shall occur only if there is an excess of parking spaces beyond what is required by the City of Beacon Zoning Code for the use of the property. All the easement rights granted herein are non-exclusive, and to be enjoyed subject to the Grantor’s reserved rights, on behalf of itself, its successors, assigns and tenants, to use these improvements jointly with members of the public. Grantor and Grantee agree that public access to the Trail, Pavilion, walkways, driveway and parking area shall not be permitted until the issuance of the first Certificate of Occupancy for Building 400, unless otherwise agreed to in writing by Grantor and Grantee.

4. Limits on Permitted Public Activities on the Property: The pedestrian uses authorized by this easement are for quiet, non-motorized, passive recreational trail hiking and walking use

by members of the public who are users of the FCGHT, and subject to the further limitations set forth in Chapter 170 of the Code of the City of Beacon, and any more restrictive amendments thereto adopted after this conveyance is recorded, and may include non-motorized bicycle use in segments of the trail which have been specifically designated by Grantee as appropriate for joint use by bicycles and pedestrians, and signed for such dual use, all of which activities are within the coverage of New York State General Obligations Law §9-103. Without in any way limiting the generality of the foregoing, authorized uses shall not include running, skiing, snowshoeing, skateboards, roller skates or use of any all-terrain vehicles, snowmobiles, or any other motorized vehicles. Without limiting the foregoing, cross-country skiing is not permitted in this easement. (Lawful construction or maintenance activities by Grantor or Grantee are not covered by this provision) There shall be no dumping of trash, garbage, or other unsightly or hazardous material within the Easement Area. No use of the Trail shall be permitted before dawn or after dusk. Rules and Regulations governing the use of the public trailways in the City, including the Fishkill Creek Greenway and Heritage Trail (“FCGHT”) are set forth in Chapter 170 of the Code of the City of Beacon, as it may be amended from time to time. Grantee may make any further restrictions it deems appropriate in managing the public use of the Trail. Public access to the FCGHT does not constitute permission to enter onto private property adjoining the Trail, and entry on private property adjoin the Trail is subject to prosecution as Trespass under the New York State Penal Law, in addition to constituting a violation of Chapter 170 of the Code of the City of Beacon.

5. Operation of Trail: After the Grantee, through the City Building Inspector, inspects, approves and accepts the constructed Trail, it shall have the authority to determine when and whether the Trail shall be open for public use, and may suspend public use of the Trail at any time for any length of time, as it may deem appropriate. Operation of the Trail is further subject to the provisions of Chapter 170 of the Code of the City of Beacon as such may be amended from time to time. In view of the natural and open character of the FCGHT, and the changing character of the natural environment, neither the Grantee nor the Grantor can make any representation that any portion of the Trail is safely passable at all times when the Trail is open. All users shall approach the Trail with caution and use it prudently and safely at the trail users own risk, in light of seasonal, weather, and other natural conditions. Neither the Grantee nor the Grantor are obligated to clear snow and ice from the Trail. Without limiting the general

ability of the Grantee to suspend public use of the trail at any time for any length of time, as it may deem appropriate, the FCGHT shall be closed during snow and ice storms.

6. Repair and maintenance obligations: Grantee shall have continuing authority to control activities on the FCGHT, and also may assign any portion of day-to-day maintenance responsibilities to an agency of government or a qualified not-for-profit entity, as the Grantee in its sole discretion may deem appropriate, provided that any such group shall carry liability insurance meeting the standards of this Agreement. In the event day-to-day responsibilities relating to the Trail are not assigned by the Grantee to an agency of government or qualified not-for-profit entity, as provided above, Grantor shall be responsible for the routine, day-to-day maintenance of the Greenway Trail, including maintenance of the Pavilion, and the parking spaces providing parking for the Pavilion and Greenway Trail. The Greenway Trail shall be maintained with a stone dust surface at the width shown on the Approved Plans. Grantor will maintain the concrete walkways shown on the site plan, including snow removal, but shall not be obligated to clear snow from the Greenway Trail. Grantee shall repair any damage caused to the Trail or Trail furniture by vandalism or criminal activity. Grantee shall provide trash receptacles and collect refuse along the Greenway Trail and walkways. Any capital expenditures, including but not limited to replacement of Trail furniture, replacement of more than 50% of the Pavilion, resurfacing or reconstruction of the public access walkways, and any major reconstruction of the Greenway Trail shall be the responsibility of the Grantee. Such capital expenditures shall be performed at the sole discretion of the Grantee.

7. Liability and Insurance: Grantee, which already maintains a municipal general liability policy, agrees to include coverage for this Greenway Trail Easement insofar as it is open for public use, in its standard policy of general commercial liability insurance, to include a coverage limit not less than \$1,000,000 for any one occurrence and \$2,000,000 in the aggregate, such limits to be adjusted at least every five (5) years to an amount equivalent to that sum in 2015 dollars. Grantee shall cause the Grantor, as owner of the fee title of the Easement Area to be named as an additional insured on such policy of municipal liability insurance, as its interests may appear. Grantee shall indemnify and hold Grantor harmless for any claims, losses, damages or suits connected with or arising out of the use of the Trail and existence of the Greenway Trail Easement, except to the extent that such claims arise from the

gross negligence or willful misconduct of Grantor. Notwithstanding the foregoing, Grantor shall also purchase liability insurance relating to the Trail, either through the Greenway Trail Program Insurance or otherwise, with the same limits of coverage, and shall, to the extent permissible, name the Grantee as an additional insured on such policy as its interest may appear.

8. Grantor Reserved Rights: Subject to the easement rights granted herein, the Grantors, for themselves, and their successors and assigns, reserve all rights as the owner of their respective properties, including the right to fully use and enjoy the Easement Area herein described, including the rights of ingress and egress to, upon, over, under, through and across the Easement Area, provided same shall not eliminate or obstruct the Easement Area, or unreasonably interfere with Grantee's rights hereunder. Grantors shall not construct anything in or below the Easement Area except as authorized by any required governmental approvals, which shall not be unreasonably denied provided that the proposed use does not unreasonably interfere with Grantee's rights hereunder. In the event that any construction below the Trail is conducted, it shall be performed in a timely manner, and the Easement Area shall be returned as near as possible to its prior condition as soon as the construction is completed. Nothing herein shall be construed as limiting the right of Grantor to sell, give, transfer, or otherwise convey or encumber the Development Site, or any portion or portions of the Development Site, provided that such conveyance is subject to the terms of this Greenway Trail Easement Agreement.

9. Reliance on State Law: Grantor and Grantee agree that in creating this easement for public access, Grantor and Grantee are relying on the protection against liability contained in section 9-103 of the New York State General Obligation Law, as the same may be amended from time to time, and that for such purposes both the Grantor and the Grantee shall be deemed "occupants" of the Easement Area. The limitation of activities permitted within the Easement Area is intended to assure that all activities are within the coverage of this provision of State Law. The parties agree, however, that any repeal or amendment of Section 9-103 that may diminish its protective effect shall not affect the validity of the Easement herein granted. Grantor and Grantee further agree that, given the City's participation as a Trail Manager, they are relying on the New York State indemnity for participating Greenway Compact

Communities contained in the New York State Environmental Conservation Law Section 44-0119(7), as the same may be amended from time to time. Grantor and Grantee further agree that they will limit activities within the Easement Area, including a prohibition on motorized uses, to assure eligibility for participation by Grantor in the Hudson River Valley Greenway Trail Program Insurance program.

10. Binding Effect: The easement granted herein is permanent and non-exclusive. The terms, covenants and agreements herein contained shall inure to the benefit of, and be binding upon the parties hereto, their successors and assigns, and all covenants herein shall run with the land affected thereby and shall be perpetual in duration. Notwithstanding the foregoing, no party shall be liable for a breach of this agreement resulting from acts or conditions occurring prior to or after the period of his or her ownership.

11. Amendment/Modification: This Easement Agreement may be amended upon written consent of Grantor and Grantee by a document duly recorded in the Dutchess County Clerk's Office.

12. Enforcement of Easement Agreement and Resolution of Disputes Concerning the Easement: The parties may enforce this Easement Agreement in law or equity against any and all persons responsible for any violation thereof. Any failure to enforce a provision of this Easement Agreement shall in no event be deemed a waiver of a right to do so thereafter, either as to the same violation or breach or as to any other violation occurring prior or subsequent thereto. The parties agree to attempt to mutually resolve any differences informally prior to enforcement proceedings. Any authorization of activities outside the protection of General Obligations Law 9-103, as amended, shall be subject to immediate injunctive relief, and the parties hereby consent to the issuance of preliminary injunctive relief.

13. Severability: Any invalidation of a provision of this Easement Agreement by court order or judgment, or by statute, or otherwise, shall not affect the validity of any other provision of this agreement, and all such other provisions shall remain in full force and effect.

14. Governing Law: This Easement Agreement and all disputes relating thereto shall be governed by and construed in accordance with the laws of the State of New York.

15. Notices: Any Notices to be provided pursuant to this Easement Agreement shall be in writing and emailed and sent by nationally recognized overnight carrier, addressed as follows:

To: Beacon 248 Development, LLC, c/o Paul Epstein, Esq. ([rc.eplaw@aol.com](mailto:rc.eplaw@aol.com)),  
621 Route 52, PO Box 2, Beacon NY 12508; and c/o Jennifer Van Tuyl  
([jvantuyl@cuddyfeder.com](mailto:jvantuyl@cuddyfeder.com)) 300 Westage Business Center, Suite 380, Fishkill, NY  
12524

To: City of Beacon, c/o Jennifer Gray, Esq. ([jgray@kblaw.com](mailto:jgray@kblaw.com)), 445 Hamilton  
Avenue, White Plains, NY 10601

Either party may designate a different person or entity to receive notice on its behalf by  
sending notice to the other parties pursuant to this paragraph.

**IN WITNESS WHEREOF**, Grantor has executed this instrument as of the date first set forth above. This conveyance is made and executed pursuant to the consent of the members of the Grantor and is made in the regular course of business of the Grantor, and the property interest conveyed does not constitute all, or substantially all, of the assets of the Grantor.

The signature of this Agreement by the Mayor of the City of Beacon was duly authorized by a Resolution of the City Council adopted at a duly scheduled public meeting held on \_\_\_\_\_, 2017.

**BEACON 248 DEVELOPMENT, LLC**

By: \_\_\_\_\_

**CITY OF BEACON**

By: \_\_\_\_\_  
Randy Casale, Mayor

WORKING DRAFT: Jennifer Gray 7/19/17; with C&F redlines 8/1/17

## ACKNOWLEDGMENTS

STATE OF NEW JERSEY                    )  
  )ss.:  
COUNTY OF                                )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the \_\_\_\_\_ (insert the city/town or political subdivision and the state or country or place of acknowledgement was taken)

\_\_\_\_\_  
Notary Public

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

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## **RECORD AND RETURN TO:**

KEANE & BEANE, LLP  
Attorneys at Law  
445 Hamilton Avenue  
White Plains, NY 10601  
Att'n: Jennifer Gray, Esq.



## DECLARATION OF EASEMENT AND CONDITIONAL OFFER OF EASEMENT

dated the \_\_\_\_\_ day of \_\_\_\_\_, 2017

WHEREAS **Beacon 248 Development LLC**, a New York Limited Liability Company, (hereinafter “**Beacon 248**”) having its principal office at 104 Rochelle Avenue, Rochelle Park, NJ 07662 is the owner of Parcel 1B on a certain map filed in the Dutchess County Clerk’s Office as Map No.10970 (“the Filed Map”) having acquired the same by Deed from Joseph Rendeiro recorded June 20, 2006 in the Dutchess County Clerk’s Office as Document #02-2006-4859, and

WHEREAS the Filed Map created two lots designated as Parcel 1A and Parcel 1B, and

WHEREAS said Filed Map contained certain Notes incorporating conditions which are binding on the owners of both lots, including a requirement that prior to the issuance of a Certificate of Occupancy for any building, a secondary means of access for emergency purposes which has been approved by the City of Beacon shall be constructed by the Applicant and shall be shown on a revised version of this plan (Note 11 of the Filed Map) and a further requirement that prior to the issuance of any building permit for any building on the plat, the lot owner must demonstrate suitable access, and that said access must be constructed before any Certificate of Occupancy would be issued (Note 12 of the Filed Map), and

WHEREAS Note 8 on the Filed Map further required that the owners of both lots have both the right and responsibility to maintain all access easements on Parcel 1B, including the responsibility to maintain accessibility over said access easement, and

WHEREAS, the Filed Map depicted an ACCESS EASEMENT in favor of Parcel 1A over Parcel 1B for both regular and emergency vehicular and pedestrian access, and required that both

parcels shall have the responsibility to maintain said easement for the purpose of providing safe and convenient access (Note 14); and

WHEREAS the Filed Map depicted a specific route for a part of the ACCESS EASEMENT over Lot 1B, which ACCESS EASEMENT continued to a point at the northerly boundary of Lot 1B, and showed a possible route for future connection to a public street via an additional easement from Metro North Commuter Railroad for a second crossing of the railroad tracks or for access along the track to property of the City of Beacon, intended to be negotiated at a future time; and

WHEREAS, in subsequent negotiations and discussions between representatives of Beacon 248, Metro-North Commuter Railroad and the City of Beacon, Metro North Commuter Railroad and the City of Beacon declined to authorize the grant of a second crossing over the tracks or an easement along the tracks for secondary access, so the route proposed on the original subdivision map could not be used for such access, and

WHEREAS during the review of Beacon 248's proposal to develop a multi-family residential project on Parcel 1B, the Beacon Planning Board required Beacon 248 to find an alternate secondary access route to a public street, and Beacon 248 negotiated for the purchase of the parcel of land lying immediately north of Parcel 1B from Central Hudson Gas and Electric Corp. ("Lands N/F CHG&E"), which parcel provides a means of access to Wolcott Avenue, such parcel to be incorporated as part of the Beacon 248 Parcel by means of a reverse subdivision/lot consolidation, as shown on Map entitled "Beacon 248 Development LLC Final Subdivision Plat," prepared by Chazen Engineering, such newly acquired property to be improved by construction of a paved access ramp to access Wolcott Avenue, all at considerable cost to Beacon 248 Development, LLC, and

WHEREAS Beacon 248 has been granted a Special Use permit by the City Council of the City of Beacon and has received site plan approval of a multi-family residential project to be constructed on Parcel 1B from the City of Beacon Planning Board as shown on Map entitled “Tioranda Avenue/Beacon 248 Development LLC Site Plan,” (the “Site Plan”) which depicts such alternate secondary means of access for emergency purposes along the roadway from the main entrance to Parcel 1B from Tioranda Avenue, through project drives on Parcel 1B to be constructed as shown on the approved Site Plan, and, north of Parcel 1B, proceeding over Lands N/F CHG&E to Wolcott Avenue, and

WHEREAS the owner of Parcel 1A, has the right to use that area of Lot 1B shown on Map #10970 as “ACCESS EASEMENT” up to the point when said “ACCESS EASEMENT” leaves the northwesterly corner of Parcel 1B, which right is set forth in a Lease Agreement dated August 12, 2002, between Joseph Rendeiro as Landlord and Advantage Capital Partners, Inc., as Tenant, as modified by Amendment to Indenture of Lease dated August 12, 2002 (Document No. 02-2003-9729) and further modified by Lease Modification Agreement dated June 8, 2005, between Joseph Rendeiro and Sisters Properties LLC (Document No. 02-2005-7449, 02-2005-7448, and 02-2005-7450) and

WHEREAS Beacon 248 Development, LLC has acquired Lands N/F CHG&E from Central Hudson Gas and Electric Corp. for the purposes of constructing a ramp to extend the Access Easement from the northerly boundary of Parcel 1B to Wolcott Avenue (the “Access Easement Extension”) at considerable cost to Beacon 248 Development, LLC, and

WHEREAS, notwithstanding that Beacon 248 is proposing to consolidate Parcel 1B with Lands N/F CHG&E, and has prepared a lot consolidation map intended to be filed in the Dutchess

County Clerk's Office simultaneously with the Recording of this Declaration, to create a consolidated parcel ("Lot as Consolidated") for the Site Plan Development, the easements created by this Declaration are created separately over the parcels as they exist prior to the filing of the Lot Consolidation Plat, to wit: over the existing Parcel 1B as shown on the Filed Map ( "Parcel 1B") and the existing Lands N/F CHG&E, Liber 959 page 373, Tax Parcel 6054-45-012574-00 ("Land N/F CHG&E); and

WHEREAS Beacon 248 is agreeable, upon certain terms and conditions set forth herein, to allowing Parcel 1A to use such newly acquired and constructed access easement and ramp over Lands N/F CHG&E to Wolcott Avenue in lieu of Parcel 1A having to provide its own emergency access in accordance with the Filed Map;

NOW THEREFORE, in order to provide for secondary and emergency access easements for Parcel 1B and 1A over the driveways of Parcel 1B as they are constructed pursuant to the approved Site Plan, and to provide an emergency access easement over the Lands N/F CHG&E for the benefit of Parcel 1B; and, further, to create an emergency access easement over the "Access Easement Extension" over the Central Hudson Property for the benefit of Parcel 1A and for other properties located south thereof, provided that the conditions herein are met, Beacon 248 Development, LLC does hereby declare the creation of easements as follows:

1. There is hereby created an easement of access for emergency purposes for the benefit of Parcel 1B and also for the benefit of Parcel 1A and such other properties to the south thereof as may be granted approval by the City of Beacon to use the same for emergency purposes, which emergency access easement is shown on Map entitled "Tioranda Avenue/Beacon 248 Development LLC Site Plan," (the "Site Plan") which

depicts such alternate secondary means of access for emergency purposes along the internal drives of the Beacon 248 Development Site Plan, which easement shall begin at the point where the approved driveways of Parcel 1A, as they may ultimately be approved by the Planning Board, enter the main access drive through Parcel 1B near the main entrance from Tioronda Avenue, and proceeding through the paved drives through Parcel 1B to be constructed as part of the approved Site Plan, and ending at the northerly boundary of Parcel 1B. The access easement granted in this paragraph does not cross any portion of the Lands N/F CHG&E. The rights granted herein for the benefit of Parcel 1A are in addition to any rights that Parcel 1A may have to use the Access Easement as shown on the Filed Map for the purpose of creating its own secondary means of emergency access as was contemplated at the time said map was approved.

2. There is hereby created for the use and benefit of Parcel 1B an easement for emergency access from Parcel 1B to Wolcott Avenue through Lands N/F CHG&E (the "Access Easement Extension"), which easement is shown in red on Exhibit A annexed hereto, and runs from the drive at the northerly end of Parcel 1B through the Access Easement Extension over Lands N/F CHG&E. THIS ACCESS EASEMENT EXTENSION IS EXCLUSIVELY FOR THE BENEFIT OF PARCEL 1B EXCEPT AS HEREINAFTER PROVIDED.
3. It is declared that Parcel 1A shall have the right to use the newly created Access Easement Extension to provide a secondary means of access for emergency purposes PROVIDED THAT on or before the date of the issuance of a Certificate of Occupancy for any building on Parcel 1A that will use the Access Easement Extension, the owner

of Parcel 1A shall reimburse the owner of Parcel 1B for fifty percent (50%) of all expenses incurred in connection with the creation of said Access Easement Extension, including, but not limited to, the cost of land acquisition from Central Hudson and the cost of engineering and constructing the portion of the paved drive and ramp over Lands N/F CHG&E to Wolcott Avenue (hereafter, "Cost of the Creation of the Access Easement Extension.") In addition, the obligation of the owner of Parcel 1A pursuant to notes on the Filed Map to pay fifty percent (50%) of the cost of maintaining the Access Easement shall be deemed to also cover the Access Easement Extension. THE PAYMENT OF 50% OF THE COST OF CONSTRUCTION AND MAINTENANCE OF THE ACCESS EASEMENT EXTENSION BY THE OWNER OF PARCEL 1A IS A CONDITION PRECEDENT TO THE USE OF THE ACCESS EASEMENT EXTENSION.

4. It is further declared that in the event that the owner of any other property which abuts the southerly boundary line of Parcel 1A desires to make use of such Access Easement Extension as part of any plan to develop its property, and further that the City of Beacon approves such access, and further that the owner of Parcel 1A agrees to provide emergency access over Parcel 1A and further agrees that such owner can share the emergency access which now exists over Parcel 1B, and further that the owner of such other property agrees to pay thirty-three and one third percent (33 1/3%) of the cost of maintaining the Access Easement Extension beginning at such time as the first Certificate of Occupancy is granted for the development on such other property; then, and in the event that all such preconditions occur, such other property shall also have the right to use said Access Easement Extension, provided that the owner of such other

property shall pay thirty-three and one third percent (33 1/3%) of the Cost of the Creation of the Access Easement Extension, which payment shall be shared equally by the owners of Parcels 1A and 1B.

5. The rights and obligations hereunder shall run with the lands referred to herein and shall be binding on and for the benefit of, their heirs, successors and/or assigns.

IN WITNESS WHEREAS this Agreement has been duly executed

BEACON 248 DEVELOPMENT LLC

\_\_\_\_\_  
By: PETER DeROSA, Member

STATE OF NEW YORK  
COUNTY OF DUTCHESS

On the \_\_\_\_ day of \_\_\_\_ in the year 2017, before me, the undersigned, personally appeared PETER DeROSA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)





**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Tax Certiorari Settlement**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description

Tax Cert F. Fina v. COB

Type

Backup Material

**Attorney-Client Correspondence  
Privileged and Confidential  
Exempt From FOIL Disclosure**

JUDSON K. SIEBERT  
Principal Member  
jsiebert@kblaw.com

August 4, 2017

Mr. Anthony Ruggiero  
City Administrator  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

Re: *Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.*  
(Sup. Ct. Dutchess Co. Index Nos. 51754/16 and 51797/17)

Dear Anthony:

I write to recommend a proposed settlement of the above-referenced tax certiorari litigation, which encompasses assessment challenges in 2016 and 2017. This case involves a homestead parcel that consists of 3.04 acres of vacant land located on Slocum Road, which was assessed at \$180,000 in 2016 and 2017. The settlement calls for a reduction of the 2016 and 2017 assessments to \$160,000 and will entail a City tax refund of \$172.20. This refund is limited to the proposed 2016 assessment reduction because the 2017 assessment will not be the subject of a City tax levy until 2018.

I recommend approval of this settlement because its terms are favorable and will serve as a cost-saving disposition of this matter.

The property at issue in this case is designated as Parcel No. 5954-20-786193 on the Tax Map of the City of Beacon. This parcel consists of vacant land adjoining a residentially improved tax lot on Slocum Road. As mentioned, it is comprised of 3.04 acres in a "flag lot" configuration with limited frontage on Slocum Road. An aerial photograph of this parcel, taken from the Dutchess County GIS database, is attached for reference purposes.

This parcel was assessed at \$180,000 in 2016 and 2017. This settlement is based upon an appraisal of the subject parcel that was provided by the taxpayer-property owner. The appraisal was based upon an analysis of five (5) land sales of parcels situated in Beacon and the Town of Fishkill. The appraisal adjusted these sales based upon a series of comparative factors, including location, topography, size, views and

Mr. Anthony Ruggiero  
City Administrator  
August 4, 2017  
Page 2

time of sale. This appraisal concluded that the subject parcel had a value of \$125,000 - \$55,000 below the contested assessments.

The appraisal was evaluated by City Assessor Kathy Martin and my office. Although the methodology applied in this appraisal was sound, and the sales selected for comparative purposes appropriate, Ms. Martin took exception to certain adjustments applied in reaching its conclusions. Based upon this review, Ms. Martin concluded an assessment reduction was potentially warranted (based upon a value of approximately \$50,000 an acre, to \$152,000).

This prospect of over-assessment exposure, coupled with the placement of this case on the calendar of the Supreme Court, Dutchess County, led to settlement negotiations and the proposed settlement terms. Again, the settlement is based upon an assessed value of \$160,000, a figure that exceeds the value advanced in the appraisal provided by the taxpayer-property owner and Ms. Martin's analysis. The refund impact of the settlement is as follows:

<u>Years</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>	<u>Homestead Tax Rate</u>	<u>Refund</u>
2016	\$180,000	\$160,000	\$20,000	\$8.61	\$172.20
2017	\$180,000	\$160,000	\$20,000	<i>Unlevied</i>	<i>Unlevied</i>
<b>Total:</b>					<b>\$172.20</b>

I recommend the approval of this settlement. It will dispose of these proceedings based upon a value that exceeds the conclusions drawn in both the property owner's appraisal and the City Assessor's analysis of this appraisal. Moreover, the refund liability arising from the settlement is extremely modest and far less than the legal fees and costs that would be incurred in continuing to attend periodic pre-trial court conferences and those associated with a trial to defend the contested assessments. Furthermore, the settlement provides for a waiver of any interest on the refund amount, provided the refund is paid within sixty (60) days after an entered Consent Judgment (effectuating the settlement terms) is served upon the City. Interest would be imposed, as a matter of law, if this case were to be decided by the court.

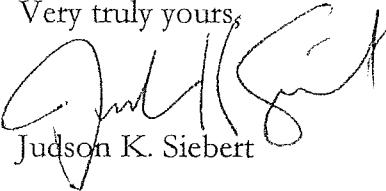
Based upon this recommendation, I have attached a proposed approving Resolution for the City Council's consideration. Again, the refund is limited to the 2016

Mr. Anthony Ruggiero  
City Administrator  
August 4, 2017  
Page 3

assessment reduction at this juncture because the 2017 assessment will be the subject of the City's upcoming 2018 tax levy.

I am available to answer any questions you may have with regard to these proceedings and the proposed settlement.

Very truly yours,



Judson K. Siebert

JKS/sj

Enclosure

cc: Ms. Kathy Martin, Assessor  
Nicholas M. Ward-Willis, Esq.



**RESOLUTION RE: CERTIORARI SETTLEMENT -  
*Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.*  
(Sup. Ct. Dutchess Co. Index Nos. 51754/16 and 51797/17) -  
SETTLEMENT OF TAX CERTIORARI LITIGATION**

**WHEREAS**, there are tax certiorari proceedings, entitled *Mtr. of Faith W. Fina Trustee v. City of Beacon, et al.* (Sup. Ct. Dutchess Cty. Index Nos. 51754/16 and 51797/17), pending before the Supreme Court, Dutchess County (Hon. James V. Brands, J.S.C., presiding); and

**WHEREAS**, these proceedings challenge the real property tax assessment of a homestead tax parcel located on Slocum Road, which is identified as Tax Lot No. 5954-20-786193 on the Tax Map of the City of Beacon; and

**WHEREAS**, on account of these proceedings, the 2016 and 2017 real property tax assessments established by the City of Beacon with respect to this parcel have been contested; and

**WHEREAS**, a settlement has been reached by and between Petitioner Faith W. Fina Trustee and the City of Beacon providing for a voluntary disposition of these proceedings; and

**WHEREAS**, a proposed Consent Judgment effectuating these settlement terms has been prepared, subject to the approval of the City of Beacon; and

**WHEREAS**, the City of Beacon has obtained the advice and assistance of its counsel, Keane & Beane, P.C., with respect to the settlement terms, the proposed Consent Judgment and has duly considered same; and

**WHEREAS**, under the settlement terms, the City will be liable for a City tax refund in the amount of One Hundred Seventy-Two and 20/100 (\$172.20) Dollars;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council accepts the settlement of the aforementioned proceedings so that the following adjustments are made to the assessment of the above-described tax parcel:

<u>Year</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>
2016	\$180,000	\$160,000	\$20,000
2017	\$180,000	\$160,000	\$20,000

**BE IT FURTHER RESOLVED**, that counsel for the City of Beacon, Keane & Beane, P.C., together with the City Administration, is hereby authorized to undertake such actions as are necessary to confirm and effectuate this settlement, including execution of the Consent Judgment incorporating the settlement terms.

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Proposed Changes to the City Charter**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description

Charter Amendments

Type

Local Law

**DRAFT LOCAL LAW NO. \_\_\_\_ OF 2017**

**CITY COUNCIL  
CITY OF BEACON**

**PROPOSED LOCAL LAW AMENDING  
THE CITY OF BEACON CHARTER**

A LOCAL LAW to  
amend the City of  
Beacon Charter.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter C of the City of Beacon entitled “Charter” is hereby amended as follows:

**Chapter C. Charter**

**Article 1. Title; Powers of City; Boundaries**

**Sec. 1.00. Short title.**

This Charter shall be known and may be cited as "Charter of the City of Beacon."

**Sec. 1.~~02~~01. Purpose.**

The purpose of this Charter is to provide the legal framework for organizing and operating the government of the City of Beacon.

**Sec. 1.~~04~~02. Corporate name.**

The City of Beacon, hereinafter referred to as the "city," shall continue to be a municipal corporation in perpetuity, as heretofore established and as provided by law, under the name "City of Beacon."

**Sec. 1.~~06~~03. Powers of the city.**

The city shall have all powers granted to a city of its population under the constitution and laws of the State of New York, as fully and completely as though they were specifically enumerated in this Charter.



**Sec. 1.~~0704~~. Authorization to sell or convey city-owned property.**

The purpose of this chapter is to supersede General City Law § 23(2)(b) so as to authorize the public or private sale or lease of real property owned by or in the control of the city through public or private transaction.

- A. Authorization for sale or lease. The City Council may by a resolution adopted by majority vote, sell, convey, exchange, grant or release any city real estate or franchise belonging to or under the control of the city at public or private sale, and grant rights or interests in, over, under and across any real property in which the city has any right, title or interest, for such consideration and upon such terms and conditions as the City Council may deem proper, and with respect to the sale of surplus real property, such terms and conditions may include purchase money mortgages, installment contract sales and any other means of selling and financing.
- B. Procedure for sale at public auction. Real property owned by the city leased, sold or otherwise alienated by public sale shall be at public auction or by sealed bid to the highest bidder, under proper regulations as to the giving of security and after public notice of the time and place and terms of such sale has been published at least once in the official newspaper of the city at least one week prior to such sale.

**Sec. 1.~~0805~~. Vested rights and duties.**

All property, power, contracts, local laws, ordinances, rules, regulations, obligations and liabilities of the city existing at the time of adoption of this Charter, unless explicitly superseded by this Charter, shall be in no way affected or changed by its adoption. All actions and proceedings pending for or against the city at the time that this Charter takes effect shall be continued unless the parties shall otherwise stipulate.

**Sec. 1.~~0640~~. Construal.**

The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article or provided by the laws of the State of New York.

**Sec. 1.~~4207~~. Intergovernmental relations.**

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or civil divisions or agencies thereof, as authorized by the Constitution and Laws of the State of New York.

**Sec. 1.~~4608~~. Boundaries of the wards.**

The city shall be divided into four wards, the boundaries of which shall be set forth in the City Code and reviewed and adjusted as appropriate within six months after publication of the results of each Federal decennial census. ~~The current ward boundaries are as follows (all references to a street refer to its center line; all references to a compass point are approximate):~~

~~Ward One:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beekman Street; then~~

~~Northeast on Beekman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Fishkill Avenue; then~~

~~North on Fishkill Avenue to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city boundary; then~~

~~10. Along the northern and western city boundaries back to the starting point.~~

~~Ward Two:~~

~~From the point on the western city boundary where it touches Red Flynn Drive; then~~

~~South on Red Flynn Drive, across the railroad overpass to Beekman Street; then~~

~~Northeast on Beekman Street to North Avenue; then~~

~~South on North Avenue to Main Street; then~~

~~East on Main Street to Teller Avenue; then~~

~~South on Teller Avenue to Wolcott Avenue; then~~

~~West on Wolcott Avenue to Sargent Avenue; then~~

~~South on Sargent Avenue to South Avenue; then~~

~~South on South Avenue to the midpoint of Fishkill Creek; then~~

~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~

~~Along the southern and western city boundaries back to the starting point.~~

~~Ward Three.~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses;  
then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~

~~West on Verplanck Avenue to Matteawan Road; then~~

~~North on Matteawan Road to Camp Beacon Road; then~~

~~North on Camp Beacon Road and continuing in the same direction to the northern city  
boundary; then~~

~~Along the northern and eastern city boundaries back to the starting point.~~

~~Ward Four.~~

~~From the point on the eastern city boundary where Mount Beacon Monument Road crosses;  
then~~

~~West on Mount Beacon Monument Road to East Main Street; then~~

~~West on East Main Street to Washington Avenue; then~~

~~North on Washington Avenue to Grove Street; then~~

~~West on Grove Street to Liberty Street; then~~

~~South on Liberty Street to East Main Street; then~~

~~West on East Main Street to Main Street; then~~

~~North on Main Street to Verplanck Avenue; then~~  
~~West on Verplanck Avenue to Fishkill Avenue; then~~  
~~South on Fishkill Avenue until it turns into Teller Avenue; then~~  
~~South on Teller Avenue to Wolcott Avenue; then~~  
~~West on Wolcott Avenue to Sargent Avenue; then~~  
~~South on Sargent Avenue to South Avenue; then~~  
~~South on South Avenue to the midpoint of Fishkill Creek; then~~  
~~South along the midpoint of Fishkill Creek to the southern city boundary; then~~  
~~Along the southern and eastern city boundaries back to the starting point.~~

## Article 2. City Council

### Sec. 2.00. Composition; eligibility; election; terms.

- A. ~~Compensation~~Composition. There shall be a City Council of six (6) members and a Mayor. The term "Council" or "City Council" shall include the Mayor unless said Mayor is excluded by express provision therefrom or by operation of law. Two (2) of the Council members will be elected at-large, and the remaining four (4) Council members will be elected from ~~districts~~ wards, the boundaries and dimensions of which shall be determined by the City Council, in conformity with constitutional requirements and the requirements of the Laws of the State of New York.
- B. Eligibility. Only qualified voters of the city shall be eligible to hold the office of Council members and Mayor. Any such elected officer of the city shall vacate ~~his~~ the office upon removal of his/ her domicile from the city and shall be disqualified from holding such office.
- C. Qualifications. Every elected or appointed city officer shall possess the qualifications prescribed by the Public Officers Law of the State of New York, except as otherwise provided in this Charter.
- D. Election and terms. ~~The first city election under this Charter shall be held on the first Tuesday in November in the year 1991 and in conformity with the Election Law. The terms of the officers so elected shall begin on January 1, 1992. Thereafter, regular elections shall be held as provided by this Charter, to elect successors to those officers whose terms are about to expire.~~

- (1) The Mayor shall be elected for a term of four (4) years.

(2) The Council members shall be elected for a term of two (2) years.

(3) Four (4) Council members shall each represent one (1) of the four (4) ~~districts~~ wards of the city, and a Council member representing such ~~district-ward~~ shall be domiciled and a qualified voter therein.

#### **Sec. 2.~~0201~~. Compensation and expenses.**

The salary for each of the six (6) Council members shall be ~~nine-eleven~~ thousand dollars (\$~~911~~,000.) per annum, and for the Mayor ~~twenty-thirty-five~~ thousand five hundred dollars (\$~~2530,500.~~) per annum. The Council may determine the compensation of the Council members and for the Mayor by ordinance. This includes, but is not limited to, salary, health insurance and/or other fringe benefits. Council members and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office. In addition, the Council members and the Mayor shall have the option of receiving health insurance benefits, individual or family coverage, through the City of Beacon's health insurance plan. Council members and the Mayor shall be required to pay all premium costs associated with health insurance coverage. ~~The City's contribution toward the premium cost of providing this coverage, individual or family, shall be at the same percentage contribution rates as is provided to the City's department heads.~~

#### **Sec. 2.~~0402~~. Mayor.**

The Mayor shall preside at meetings of the Council and shall be recognized as chief executive officer of the city government. The Mayor shall appoint the Council Secretary. The Mayor, with the consent of a majority vote of the Council, shall appoint all members to, and fill all vacancies on, all boards, commissions and similar bodies created and authorized by state law or this Charter. The Mayor may appoint, from time to time, such nonsalaried advisory committees as may be necessary to make nonbinding recommendations as to those matters which they are assigned to review. ~~The Mayor shall submit a yearly planning report to the Council no later than June 1.~~

#### **Sec. 2.~~0603~~. Prohibitions.**

- A. Holding other office. Except where authorized by law, no Council member shall hold any other city office or employment during the term for which elected to the Council; and no former Council member shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected to the Council.
- B. Appointments and removals. Neither the Council nor any of its members, with the exception of the Mayor, shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the Mayor or any subordinates are empowered to appoint, but the Council may express its views and fully and freely

discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.

- C. Interference with administration. Except for the purpose of inquiries and investigations under Section 2.4206, neither the Council nor any of its members shall direct or otherwise manage any city officer or employee, other than through the City Administrator or Mayor.

**Sec. 2.0804. Vacancies in elective office.**

- A. Creation of vacancies. A vacancy in an elective office shall exist when the person elected fails to qualify for the office within thirty (30) days thereafter, dies, resigns, ceases to be domiciled in the city and/or ward from which elected, is determined to be either mentally or physically incompetent to perform the duties for which that person was elected or is convicted of a felony or a crime involving a violation of oath of office or when a judgment of a court declares the election void, the office forfeited or vacant or when the person fails or refuses to file the official oath or undertaking as prescribed by law.
- B. Procedures. If a vacancy shall occur in any elective office of the city (with the exception of Mayor), otherwise than by expiration of term, the Mayor, with the consent of the majority of the City Council, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the Public Officers Law. If a vacancy in an elective office is not filled by the Mayor with Council approval within forty-five (45) days of its occurrence, the Council shall have the power to fill such vacancy by four (4) affirmative votes of the Council. In the event that no appointment is made to fill the vacancy as hereinbefore provided, the Council may call a special election to fill such vacancy for the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. If the vacancy shall occur in the office of Mayor, the City Council, by a majority vote of its members, shall appoint a duly qualified person to fill such vacancy until a successor is chosen in accordance with the provisions of the Public Officers Law. In the event that no appointment is made to fill the vacancy in the office of Mayor within forty-five (45) days of its occurrence, the Council may call a special election to fill such vacancy for the remainder of the unexpired term. Such a special election shall be held no later than ninety (90) days from the occurrence of the vacancy. During the interim, the person so appointed as Mayor pursuant to Chapter 23 of the Code of Ordinances shall perform the duties of Mayor until the vacancy is filled as hereinabove provided and shall assume the additional compensation for Mayor while assuming those duties.
- C. In the event there is a conflict with the language contained in either Chapter 19 or Chapter 23 of the Code of Ordinances, the terms of this section shall supersede the provisions in Chapters 19 and 23 of the Code of Ordinances entitled "Continuity of Government" and "Disaster Preparedness Committee," respectively.

**Sec. 2.~~1405~~. Judge of qualifications.**

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of and removal from their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office other than those grounds causing an immediate vacancy, by operation of state law, shall be entitled to a public hearing on demand, after seven (7) days' written notice. Notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts. In determining the qualifications of its members, the Council shall use the standards set forth in the Public Officers Law and General Municipal Law, and such additional standards as may be enacted by Charter amendment or local law, provided that the same are not inconsistent with the Public Officers Law or General Municipal Law.

**Sec. 2.~~1406~~. Inquiries and investigations.**

The Council shall have access to all information concerning any aspect of the affairs of the city, and may request such information in writing. The Council shall also have the power to make formal investigations into any aspect of the affairs of the city, and for such purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails to obey any subpoena or lawful directive of the Council pursuant to this section shall be punished as provided by law for contempt.

**Sec. 2.~~1407~~. Independent audits.**

The Council shall obtain an independent audit of all financial accounts at least once annually. Such audits must be conducted by a certified public accountant who has no direct personal interest in the financial affairs of the city government or any of its officials. The annual audit must be reported to the Council and the public no later than ~~April 30~~ June 30 of each year.

**Sec. 2.~~1608~~. Procedures.**

- A. Meetings. The Council shall meet regularly twice in every month at such times and places as the Council may prescribe by rule. The Mayor's office shall prepare and make public a written agenda ~~the Friday at least two (2) working days~~ before each regular Council meeting. Special meetings may be held on the call of the Mayor or of four (4) or more members, and whenever practicable, upon no less than twenty-four (24) hours' written notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed or executive session, those topics or items for which the Public Officers Law allows a closed session. The general subject matter for consideration must be expressed in the motion calling for



such closed session. Final action thereon shall not be taken by the Council until the matter is placed on the agenda.

- B. Rules and journal. The Council shall determine its own rules and order of business and shall provide for keeping of a full and accurate journal of its proceedings and communications, which shall be a public record. They shall provide for public comments at all meetings.
- C. Workshops. In order to prepare for regular meetings, the Council may meet in informal public workshops. Workshop meetings shall be subject to the same requirements as regular meetings with respect to notice, public attendance, advance public agenda, and public record. No formal legislative decision may take place at a workshop. Any Council member may request the Mayor add an item to the workshop agenda and if not added to the Agenda, a Council member may at the next workshop meeting request that the item be added to the end of the Agenda upon approval of a majority of the Council. Any Council member may refer to workshop any item of business that has not been previously reviewed in workshop and/or any item of business discussed at a regular meeting which requires further discussion.
- D. A majority of the whole number of the Council, including vacancies, abstentions and any members disqualified, shall constitute a quorum, and the same number shall be necessary to perform and exercise any power, authority or duty of the Council.
- E. Official newspaper. The Council shall designate on an annual basis an official newspaper or newspapers, which may be a daily or weekly newspaper of general circulation in the City of Beacon.

## **Sec. 2.~~1809~~. Action requiring an ordinance or local law.**

The Council shall have the power to enact ordinances for any lawful purpose, within its powers, as provided and authorized by § 20 of the General City Law or any other statute of the State of New York. The Council may enact local laws, for any purpose authorized under the laws of the State of New York, pursuant to the procedures set forth by the laws of the State of New York for such enactments.

## **Sec. 2.~~2010~~. Ordinances in general.**

All proposed ordinances must be presented, in writing, by the Council at least one (1) meeting before adoption, except for emergency ordinances as provided in Section 2.~~2412~~. All ordinances, resolutions and charter amendments adopted by the Council shall be recorded in the journal.

## **Sec. 2.~~2211~~. Franchises.**

No franchise or renewal thereof shall be granted except upon a public hearing, a notice of which shall be published at least three (3) weeks before the date set for the hearing. The



request for such franchise or renewal shall be on file with the City Clerk for public inspection for the three (3) weeks prior to the date of the hearing.

## **Sec. 2.~~24~~12. Emergency ordinance.**

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting emergency clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) Council members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

## **Sec. 2.~~26~~13. Publication of ordinances and resolutions.**

The Council shall cause ~~a summary of the entire text of~~ every ordinance and of every resolution having the effect of law ~~to be printed in full in the minutes of the meeting at which they are introduced and adopted, and of the entire text of each amendment to this Charter, to be published promptly in the official newspaper following its adoption before it becomes effective.~~ The full text of the ordinances, resolutions and charter amendments shall be published on the City website and made available to the public, free of charge, from the City Clerk. ~~The published notice shall specifically state that a full copy of the ordinance or resolution may be obtained, free of charge, from the City Clerk.~~

## **Article 3. Mayor; Administrator**

### **Sec. 3.00. Powers and duties of Mayor.**

- A. ~~1.~~—The Mayor shall appoint, subject to Council approval, all city employees, department heads and administrative officers provided for by this Charter, created by the Council, authorized or approved by the Council or required by State Law.
- B. ~~2.~~—The Mayor shall have the power to remove, suspend or terminate any and/or all city employees, department heads, and/or administrative officers where and when the Mayor deems it necessary, except as otherwise provided for by this Charter or personnel rules adopted pursuant to this Charter and/or state law.

- C. ~~3.~~ The Mayor may authorize any administrative officer who is subject to the Mayor's authority and supervision to exercise any of the Mayor's powers with respect to subordinates in that officer's department, office or agency.
- D. ~~4.~~ The Mayor shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- E. ~~5.~~ The Mayor shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by the Mayor or by officers or subject to the Mayor's direction and supervision are faithfully executed.
- F. ~~6.~~ The Mayor shall direct the City Administrator to prepare the budget ~~prepare~~ and submit the annual budget and capital program to the Council.
- G. ~~7.~~ The Mayor shall submit to the Council and make available to the public by ~~March~~ May 1 each year a complete written report on the finances and administrative activities of the city as of the end of the prior year.
- H. ~~8.~~ The Mayor shall make such other reports as the Council may require concerning the operations of city departments, officers and agencies subject to the Mayor's direction and supervision.
- I. ~~9.~~ The Mayor shall keep the Council fully advised as to the financial condition and future needs of the city and make recommendations to the Council concerning the affairs of the city.
- J. ~~10.~~ The Mayor shall perform such other duties as are specified in this Charter or may be required by the Council.
- K. ~~11.~~ The Mayor shall sign ~~all~~ contracts when authorized and approved by the Council.
- L. ~~12. The Mayor shall designate a purchasing agent who shall be responsible for all city purchases.~~
- M. ~~13.~~ The Mayor, as the chief executive officer of the city government, shall represent the city at functions which require official representation.
- N. ~~14.~~ The Mayor shall notify the City Council of the expiration dates of all appointed positions that are subject to this provision, at least sixty (60) days prior to said expiration date. The Mayor shall also post a notice ~~at City Hall~~ on the City website and publicly announce all such expiration dates at the same time as Council notification. Resignations shall be announced at the first Council meeting following the receipt of said notice of resignation by the Mayor.
- O. ~~15.~~ Nominations and applications for such positions shall be accepted from both the Council and the public for a two-week period following said notification.

Applications received by the Mayor prior to the notification set forth above shall also be considered for these positions.

- P. ~~16.~~ Proposed appointments by the Mayor will not be added to the agenda between the adjournment of a workshop session and the commencement of the following City Council meeting.

### Sec. 3.01. Acting City Administrator.

- A. ~~Each year~~ The City Administrator shall recommend to the Mayor two individuals qualified to fill in as Acting Administrator. At the beginning of the year, at the annual reorganization meeting, the Mayor shall publicly announce and approve the two individuals. If and when an Acting City Administrator is required to perform the duties of City Administrator, a resolution shall be approved by the City Council appointing one of the two individuals. Council hereby creates the position of Acting City Administrator who may be appointed by the Mayor, subject to Council approval, whenever the Mayor determines that  
An Acting City Administrator may be appointed, whenever the Mayor determines that:

- (1) The City Administrator is medically unable to perform his ~~or~~ her duties full-time;
- (2) The City Administrator is or will be on a leave of absence or vacation for more than ~~five (5) days~~ thirty (30) days;
- (3) The City Administrator is prevented by an emergency from carrying out his ~~or~~ her duties;
- (4) The City Administrator has resigned or is terminated.

#### B. Qualifications.

- (1) If the Acting City Administrator is expected to perform for less than three (3) consecutive months, the Acting Administrator shall possess a baccalaureate degree from an accredited college or university or at least one (1) year of special training in public administration and finance or at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration.
- (2) If the Acting Administrator is expected to or does perform in that capacity for more than three (3) consecutive months, the Acting City Administrator's qualifications shall be a baccalaureate degree from an accredited college or university and at least one (1) year of special training in public administration and finance and at least three (3) years' successful experience in a responsible executive position in governmental administration, or any equivalent training or

combination of experience and training sufficient to indicate capacity for effective governmental administration.

- C. Upon determination by the Mayor of the existence of any of the events set forth in Subsection A, the Mayor's appointment of the Acting City Administrator shall commence on a date designated by the Mayor. The Acting City Administrator shall have all the powers and perform all the duties of the City Administrator during any period of the City Administrator's absence.
- D. The Acting Administrator shall terminate upon the City Administrator's resumption of his~~-or-~~/her duties full time.
- E. The Acting City Administrator's compensation shall be determined by the Mayor, subject to Council approval.
- F. The Mayor or the Council may require certification from a medical doctor that the City Administrator is able to resume full-time duties where the City Administrator's absence is due to medical reasons.
- G. The Acting City Administrator's term of appointment shall not exceed six (6) months unless reappointed by the Mayor with Council approval prior to the expiration of the six-month period.
- H. An appointment of an Acting City Administrator shall be made no later than sixty (60) days after any of the events set forth in Subsection A occurs, as may be determined by the Mayor.

### **Sec. 3.02. City Administrator.**

- A. The Mayor shall appoint a City Administrator subject to an affirmative vote of a majority of the Council members. The City Administrator shall serve at the pleasure of the Mayor. Prior to appointment, the City Administrator shall be qualified with a baccalaureate degree from an accredited college or university and at least one (1) year's special training in public administration and finance and by at least three (3) years' successful experience in a responsible executive position in governmental administration, or by any equivalent training or combination of experience and training sufficient to indicate capacity for effective governmental administration. The City Administrator shall attend all Council meetings and shall have the right to take part in discussion, but may not vote.
- B. The City Administrator shall, as directed by the Mayor:
  - (1) Supervise the operations of all departments and units of the city government. As the Supervisor of all department heads, the City Administrator has the authority to discipline any department head for cause, up to but not including termination.

- (2) Prepare or cause to be prepared and submit to the Mayor an annual budget and a capital program pursuant to the provisions of Article 5 of the Charter and Code, and when the same has been approved by the Mayor and the Council, administer the operations under his/her jurisdiction and within those budgetary provisions.
- (3) Report to the Mayor on the needs, finances and progress of the city in conforming to its Comprehensive Plan, with such recommendations for action by the Council.
- (4) Promulgate a personnel and salary plan and, when it is approved by the Council, faithfully execute and adhere to its provisions, and in the same manner revise and update such plans as may be necessary.
- (5) Negotiate, on behalf of the city, agreements with recognized employee representatives on conditions of employment, wages, employee sick leave, vacations, compensatory time off, health insurance, retirement plans and such other personnel matters as may be negotiated, and recommend to the Mayor necessary action thereon as they may deem necessary.
- (6) He/She shall see that all laws and provisions of the Charter and the Code and directions of the Council, subject to enforcement by him/her or officers subject to his/her supervision, are faithfully executed.
- (7) Promulgate a uniform purchasing plan for the procurement of all goods and services required in the administration of the city government, and when approved by the Mayor and the Council, faithfully administer the same.
- (8) Execute such purchasing and service contracts as may be required for the effective administration of the government and the care of its equipment and property under such general authorization as he/she may request and the Mayor and the Council may, by resolution, grant.
- (9) Authorize the attendance of city officials and employees at meetings, seminars and other such gatherings and functions, within budgetary limits or upon special action by the Council.
- (10) Authorize functions and duties not otherwise provided for by the Charter and Code, to units of his/her own choosing, and to transfer employees from one unit to another, temporarily or permanently, as he/she may deem appropriate.
- (11) Act promptly to deal with minor emergencies and breakdowns in city service, and assign administrative resources as available and needed to deal with major emergencies.
- (12) Pursue grant proposals that may benefit the city.

- (13) Carry out such related and nonconflicting duties as may be directed by the Mayor, or as the Council may, by resolution, empower the Mayor to assume, within the constraints imposed by the Charter and Code.
- (14) Approve each voucher, claim or account presented.
- (15) Sign all orders and vouchers for any material or services ordered, rendered, delivered or used.
- (16) Approve all bonds or other security and all public liability and property damage insurance policies required by this Charter and the Code of Ordinances to be given in favor of the city and its inhabitants.

### **Sec. 3.0403. Removal of Administrator.**

The Mayor, with the consent of the council, may remove the Administrator from office in accordance with the following procedures:

- (1) The Mayor shall submit to the Council a preliminary resolution which must state the reason for removal and may suspend the Administrator from duty for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered promptly to the Administrator.
- (2) Within fifteen (15) days after a copy of the resolution is delivered to the Administrator, the Administrator may file with the Council a written response to the preliminary resolution.
- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members, at any time after the expiration of fifteen (15) days from the date when a copy of the preliminary resolution was delivered to the Administrator. The Administrator shall continue to receive his/her salary until the effective date of a final resolution of removal.

### **Sec. 3.0504. Acting Mayor.**

~~A. Title. This local law shall be entitled "A Local Law Adding to the City Charter Section 3.05 to the Powers and Duties of the Mayor to Appoint an Acting Mayor."~~

~~B.A.~~ Intent and purpose. This local law provides for the creation of the position of Acting Mayor, who shall be appointed by the Mayor to assure that the office and powers of the Mayor are properly executed in the absence of the Mayor from office or where the Mayor's disability causes his/her absence, preventing the Mayor from executing the functions of the Mayor's office.

~~C.B.~~ Appointment of Acting Mayor.

- (1) The City Council hereby creates the position of Acting Mayor, who shall be appointed by the Mayor, subject to City Council approval, within three (3) months of the City of Beacon's reorganization meeting.
- (2) In the event of a tie vote of the City Council on the approval of the Mayor's appointment of an Acting Mayor, the Mayor's appointment shall stand.

~~D.C.~~ Qualifications of Acting Mayor. The Acting Mayor shall be a member of the City Council at the time of appointment.

~~E.D.~~ Duties of Acting Mayor. The Acting Mayor shall have all the powers and perform all the duties of the Mayor during any period of the Mayor's absence from office and shall be entitled to cast one (1) vote as Acting Mayor and no vote as a Council member.

~~F.E.~~ Term of service. The Acting Mayor shall cease serving as Mayor upon the termination of the Mayor's absence and resumption by the Mayor of his/her mayoral duties.

~~G.F.~~ Compensation. The Acting Mayor will not receive compensation for services as Mayor.

~~H.G.~~ Determination. The determination of whether a vacancy exists in the elective office of Mayor shall be made as set forth in City Charter Section 2.08-04 and the Public Officers Law. If there is a conflict between the language of this local law and Section 2.08-04 or the Public Officers Law, the terms of Section 2.08-04 or the Public Officers Law shall supersede the provisions of this law.

~~I.H.~~ Effective date. This law shall take effect immediately upon its filing in the office of the Secretary of State.

## **Article 4. Administrative Departments**

### **Sec. 4.00. General provisions.**

- A. Creation of departments. The Council may establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies.
- B. Personnel system. All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or



other evidence of competence, and according to the provisions and requirements of the Civil Service Law.

- C. Salaries. The Mayor shall fix reasonable salaries of all department heads and nonelected, nonaffiliated personnel, within the budgetary limits set by the Council.
- D. The Mayor and City Council shall approve in advance the creation of all employment positions within the City of Beacon, by roll call vote. Prior to such vote, the Mayor shall provide the Council with the position title, rate of pay, description of duties to be performed and the planned date of hire.

#### **Sec. 4.0201. City Attorney.**

The City Attorney shall be a law firm or an attorney and counselor at law, duly licensed to practice law in the State of New York for at least five (5) years prior to appointment. The City Attorney shall be appointed by the Mayor with the consent of the Council. The City Attorney shall serve at the pleasure of the Mayor for a term that shall not exceed four (4) years and shall commence with the appointment of the Mayor at the beginning of the Mayor's term of office. The City Attorney shall be the legal advisor of the Mayor and Council and all city departments, boards and commissions. The City Attorney shall conduct all cases in court wherein the City shall be a party plaintiff or defendant or a party in interest and shall perform such other duties as are required by law.

#### **Sec. 4.0402. City Clerk.**

The City Clerk shall:

- A. Perform all duties assigned to the position by law, unless modified in the City Code, and such other duties as requested by the City Administrator.
- B. Act as the City's custodian of records, the Records Access Officer, and receive all documents filed with the City.
- C. Be the depositor and custodian for all performance bonds.
- D. Give notice of all City Council meetings to members and the public, and shall be the custodian of the journal of its proceedings.
- E. Act as the City Registrar and issue dog licenses.
- F. File all propositions submitted to the citizens of Beacon, together with the affidavits of publication and posting thereof as required in the Code of Ordinances and resolutions adopted by the City Council.



- G. File such other reports, records, oaths, documents and instruments as are required to be filed by the laws of the State of New York and the provisions of the Beacon Code of Ordinances and City Charter.

#### **Sec. 4.~~0603~~. Department of Finance.**

There shall be a Department of Finance, the head of which shall be the Director of Finance, which shall be responsible for the management and disbursement of all City revenues and other assets. The individual so appointed to the position of Director of Finance shall have attained certification as a certified public accountant, or shall have a graduate degree in law, business, or public administration with a minimum of five years of experience in public finance; or shall possess~~or an~~ equivalent qualifications, certification ~~or and~~ experience and shall possess the experience and qualifications necessary to perform the duties of the office. Whether a candidate meets the requisite experience and qualifications to serve as Director of Finance shall be determined by the City Administrator.

#### **Sec. 4.~~0804~~. Department of Public Works.**

~~There shall be a~~ Public Works Department as organized, ~~and staffed upon the effective date of this Charter shall continue until otherwise provided by local law or ordinance.~~

#### **Sec. 4.~~1005~~. Fire Department.**

The Fire Department shall be organized and staffed as set forth in City Code Chapter 31 and any amendments thereto ~~and shall continue until otherwise provided by law or ordinance.~~ There shall be a full-time Fire Chief, who shall be a paid employee of the City appointed by the Mayor, subject to the consent of the Council. There shall also be one (1) or more unpaid Assistant Fire Chiefs, to be known as First Assistant Fire Chief and so on, who shall be appointed from the ranks of the volunteer firefighters pursuant to the provisions set forth in City Code § 31-9 and any amendments thereto.

#### **~~Sec. 4.10.1. Fire and Inspection Coordinator.~~**

~~The position of Fire and Inspection Coordinator may be appointed by the Mayor with the consent of the City Council. The Fire and Inspection Coordinator shall:~~

- ~~1—At the Fire Chief's direction, supervise and assign daily work activities to paid career firefighters.~~
- ~~2—At the Fire Chief's direction, assign Fire Department personnel to cover vacation, holiday, personal leave and other approved time off, together with reviewing and approving or denying all leave requests.~~
- ~~3—Coordinate and supervise fire inspections of multiple dwellings and other occupancies in consultation with the Building Department.~~

- ~~4 At the Fire Chief's direction, monitor performance and conduct regularly scheduled performance evaluations of all paid career firefighters.~~
- ~~5 At the Fire Chief's direction, coordinate and supervise paid career firefighter's training.~~
- ~~6 Participate in fire suppression and emergency medical treatment activities, as required.~~
- ~~7 Perform new construction inspections, zoning law administration, code enforcement duties, fire inspections and building plan review, as required.~~
- ~~8 Complete required reports relative to personnel, training, zoning law administration, code enforcement duties, construction inspections, and fire inspections.~~
- ~~9 Enter and inspect any such building, structure or premises in the City of Beacon and may perform any other act or duty necessary for the proper enforcement of the codes, ordinances and law of the City of Beacon.~~
- ~~10 Issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations.~~
- ~~11 Issue summons and appearance tickets for violations of the codes, ordinances and local laws of the City of Beacon.~~
- ~~12 Be designated as a career firefighter in the City of Beacon Fire Department.~~
- ~~13 Perform related work and duties as required.~~

#### **Sec. 4.~~1206~~. Police Department.**

~~The Police Department, as organized and staffed upon the effective date of this Charter, shall continue until otherwise provided by local law or ordinance.~~ The executive head of the Police Department shall be the Chief of Police, who shall be appointed by the Mayor, with the consent of a majority of the Council, pursuant to the Civil Service Law.

#### **Sec. 4.~~1407~~. Office of Assessor.**

The Assessor shall be appointed by the Mayor with consent of a majority of the Council for a term as provided by the New York Real Property Tax Law. The office of Assessor shall meet the qualification standards set forth in the Real Property Tax Law.

#### **~~Sec. 4.16. City Officers.~~**

~~The positions of Code Enforcement Officer, inspectors and other officers of the city as existing on the effective date of this Charter shall continue until otherwise provided by local law or ordinance. Every city officer shall, before he enters upon the duties of his office, take, subscribe and file with the City Clerk the constitutional oath of office.~~

## **Article 5. Financial Procedures**

### **Sec. 5.00. Fiscal year.**

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

### **Sec. 5.~~020~~1. Submission of budget and budget message.**

At the first regular meeting in October of each year the Mayor shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying message.

### **Sec. 5.~~040~~2. Budget message.**

The budget message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the city's debt position and include such other material as deemed appropriate.

### **Sec. 5.~~060~~3. Budget.**

- A. Specifications. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems appropriate or the Council may require. The budget shall utilize the most feasible combination of expenditure classification by funds, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents and shall show in detail all estimated income, including the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:
  - (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.

- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each.
  - (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition. Subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.
  - (4) All equipment budget lines must include a separate itemized list of proposed equipment purchases for that budget year with proposed expenditures for each piece of equipment. No equipment may be purchased during the course of the fiscal year that is not included on said itemized list, unless the Council approves, upon a roll-call vote, any addition or deletion from said list.
- B. Balanced budget. The total of proposed expenditures shall not exceed the total of estimated income.
- C. Notice and hearing. The Council shall publish in the official newspaper of the city and one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
- (1) The times and places where copies of the message and budget are available for inspection by the public; and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.
- D. Amendment before adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service.
- E. Adoption. The Council shall adopt the budget on or before the 31st day of the last month of the fiscal year. In the event that the Council fails to adopt a budget by said date, then, in such event, the proposed budget of the Mayor shall, by operation of law, become the budget for the ensuing fiscal year. If the default budget provides for a tax levy in excess of the allowable levy limit, the City Council shall pass a resolution to reduce the amount of the tax levy to an amount that complies with the allowable levy limit. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The property tax therein proposed shall constitute a levy.
- F. Quarterly reports. The Mayor shall submit to the Council a written summary of the quarterly financial report each year in April, July and October.

**Sec. 5.0804. Capital program and action.**

- A. Submission to council. The Mayor shall submit to the Council a five-year capital program by May 31 of each year.
- B. Notice and hearing. The Council shall publish in the official newspaper of the city and in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:
  - (1) The times and places where copies of the capital program are available for inspection by the public; and
  - (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.
- C. Adoption. The Council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before the 31st day of July of each year.

**Sec. 5.0510. Amendments after adoption.**

- A. Supplemental appropriations. If during the fiscal year the Mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.
- B. Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- C. Reduction of appropriations. If at any time during the fiscal year it appears probable to the Mayor that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her and his/her recommendations as to any steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by ordinance reduce one (1) or more appropriations as allowed by law.
- D. Transfer of appropriations. All budget transfers of moneys, except transfers within a department as provided below, must be approved by the City Council upon a roll-call vote, for each requested transfer. No transfers may be made within a department

involving accounts for payroll, employee benefits and equipment purchases. In addition, budget transfers of any unencumbered appropriation balance which exceeds ~~three-seven~~ thousand ~~five hundred~~ dollars (\$~~37,500.~~) must also be approved by the City Council upon a roll-call vote for each requested transfer.

**Sec. 5.~~1206~~. Administration of budget.**

- A. Payment and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, and unless the Mayor or his /her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such illegal authorization or payment shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he /she shall also be liable to the city for any amount so paid.

**Sec. 5.14. Public moneys.**

- ~~A. The Mayor, or an officer designated by the Mayor, shall, under the power and control of the City Council, have the direct management of the revenue of the city, except as otherwise provided by this Charter or by ordinance. The Mayor, or his designate, shall be ex officio City Treasurer, with the usual duties and powers of that office.~~
- B. No city officer or employee shall utilize an automatic signature ~~a signature stamp or signature plate~~ in processing checks to pay bills and vouchers incurred by the City of Beacon, except in the case of payroll or accounts-payable checks.

**Sec. 5.~~1608~~. No liability without appropriation.**

Except as herein otherwise specifically provided, the city expenditures in any one (1) year shall not be increased over and above the amount provided in the budget duly adopted by the City Council pursuant to Section 5.~~06-03~~ herein. No contract involving the expenditure and no expenditure for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed in any one (1) year the amount provided in said budget to be paid out of the said general and special funds so appropriated and set apart, but the said general funds shall be maintained for, used and devoted to be particular purposes specified in said budget, except that the unexpended balance in any budget appropriation may, by motion, be transferred to any other budget appropriation contained in said duly adopted budget.

**Sec. 5.~~1809~~. Unlawful to incur expense unless appropriation made.**

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city unless such an appropriation shall have been made concerning such expenses. Such contract shall be ab initio null and void as to the city for any other or further liability; provided, first, that nothing herein contained shall prevent the city from providing from sums made available for such purposes pursuant to the Local Finance Law for the payment of any expense the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the Budget; and provided, second, that the provisions of this section shall not apply to or limit the authority conferred pursuant to the Local Finance Law nor for moneys to be collected by special assessments for local improvements. It shall be lawful for the City Council upon the happening of any emergency and upon the declaration of such emergency by resolution of the Council to appropriate from any unexpended funds not otherwise designated for specific purposes by law sufficient funds for the payment of any expenses created by such emergency.

## **Article 116. Collection of Taxes**

### **Sec. 116.00. Levy and collection of taxes.**

Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.

### **Sec. 116.021. Procedures for enforcement of collection of delinquent taxes.**

Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.

## **Article 67. Planning**

### **Sec. 67.00. Comprehensive Plan.**

- A. Content. The Council shall adopt ~~the a Comprehensive Plan and amend it from time to time pursuant to General City Law Section 28-a existing Master Plan, or shall amend the same, to constitute a Comprehensive Plan~~ to govern the future physical development of the city.
- B. Periodic update. Separate from any individual amendments, the Council shall periodically undertake a full update of the Comprehensive Plan, at least every 10 years. The Council may delegate such responsibility either to the Planning Board or



to a special committee whose members the Mayor shall appoint and the Council approve.

~~C. Adoption. Upon receipt of a proposed Comprehensive Plan or proposed modification of the existing plan, the Council shall, by resolution, refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposal and shall thereafter adopt it by resolution with or without amendment.~~

~~D. Effect. The Comprehensive Plan shall serve as a guide to all future Council action concerning land use and development regulations, community development programs and expenditures for capital improvements.~~

## **Sec. ~~67.0201~~. Implementation of Comprehensive Plan.**

A. Land use and development regulations. The Council may by ordinance adopt land use and development regulations, including, but not limited to an official map and zoning and subdivision regulations.

~~B. Annual report on comprehensive implementation. At the beginning of each year, to review progress on implementation of the current Comprehensive Plan, including an enumeration of actual changes in the prior year and expected changes in the current year.~~

~~C.~~B. Community development. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, (2) low-income housing, ~~and~~ (3) the achievement of the most appropriate use of the land, and (4) promotion of sustainability and resiliency in capital projects.

~~D.~~C. Council action. Before acting on any proposed ordinance concerning land use and development regulations, community development or expenditures for capital improvements, where such ordinance refers to a matter covered by the Comprehensive Plan, the Council shall refer the proposal to the City Planning Board, which shall, within a time specified by the Council and prior to public hearing on the proposed ordinance, report its recommendations thereon. In the event that such ordinance is contrary to the Comprehensive Plan, then and in that event, the ordinance shall not take effect until such time as the Comprehensive Plan is amended following such public hearing.

## **Sec. ~~67.0402~~. Planning Board.**



There shall be a City Planning Board consisting of seven (7) members appointed by the Mayor, with the consent of the City Council, for terms of three (3) years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall make recommendations to the Mayor and the City Council on all matters affecting the physical development of the city, shall be consulted on the Comprehensive Plan and the implementation thereof as provided in Sections ~~67.00~~ and ~~67.02-01~~ and shall exercise all other responsibilities as may be provided by law.

#### **Sec. ~~67.0603~~. Zoning Board of Appeals.**

There shall be a Zoning Board of Appeals consisting of five members appointed by the Mayor, with the consent of the City Council, for terms of three years, from among the qualified voters of the city. Members of the Board shall hold no other city office. The Board shall hear and determine appeals from administrative decisions, petitions for variances and such other matters as may be required by the Council or by the laws of the State of New York.

### **Article ~~78~~. Nominations and Elections**

#### **Sec. ~~78.00~~. Regular election.**

The regular city election shall be held on the first Tuesday of November in each odd-numbered year.

#### **Sec. ~~78.02~~. Nominations and elections.**

All city nominations for election to city office and all elections shall be conducted in accordance with the Election Law of the State of New York and shall be held at such time as may be specified by said Election Law.

#### **Sec. ~~78.0403~~. Qualification of voters.**

All citizens qualified by the laws of the State of New York to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this Charter.

#### **Sec.- ~~78.0604~~. Procedures for elections.**

Candidates for the at-large seats on the City Council must be so designated. Candidates for the ward seats must be domiciled in the ward from which they are seeking election, and only qualified electors shall be eligible to hold such office.

### **Article ~~89~~. Finances, Taxation, Local Assessments and Improvements**

#### **Sec. ~~89.00~~. Indebtedness and taxation.**

The city shall have the power to contract indebtedness for any municipal purpose, if authorized by the Local Finance Law of the State of New York or any other state law, to accomplish any lawful purpose to the extent authorized for such purpose and subject to the provisions of this Charter. The city shall have the power to raise money to defray the cost of the carrying on of the general government and for the doing of any of the things authorized by law, by general taxation and by local assessment where authorized, not to exceed the amounts otherwise provided by law.

**Sec. ~~89.0201~~. Bond referendum.**

Any bond ordinance hereafter adopted by the Council authorizing the issuance of bonds of the city, other than bond ordinances expressly excepted hereafter, shall be subject to a permissive referendum to be called and conducted under the same procedures for permissive referenda set forth in the Municipal Home Rule Law.

**Sec. ~~89.0403~~. Notice of adoption.**

Notwithstanding the provisions of the Municipal Home Rule Law, the City Clerk shall, within ten (10) days after the adoption of any bond ordinance which is subject to a permissive referendum, publish a notice in the official newspaper of the city, which notice shall state the date of adoption of such bond ordinance and that such bond ordinance was adopted subject to a permissive referendum and shall contain a summary of such ordinance and state that a full copy of said ordinance is available, free of charge, from the City Clerk.

**Sec. ~~89.0604~~. Referendum procedures.**

Any bond ordinance which is subject to a permissive referendum shall not take effect until the time limits for a permissive referendum as provided in the Municipal Home Rule Law have expired without a petition being presented, or until approved by an affirmative vote of a majority of the qualified electors of the city after the filing of a petition pursuant to the Municipal Home Rule Law. If a petition be filed as provided by the Municipal Home Rule Law, a proposition for approval of the bond ordinance therein described shall be submitted at the next general election in the city unless the Council, within thirty (30) days after the filing, shall direct by resolution that such proposition be submitted at a special election which shall be held not less than ninety (90) days nor more than one hundred twenty (120) days after the filing of such petition.

Any such petition may be made upon separate sheets, and the signatures to each shall be signed and authenticated in the manner provided by the Election Law for the signing and authentication of designating petitions insofar as applicable. The several sheets so signed and authenticated, when fastened together and offered for filing, shall be deemed to constitute one (1) petition. The City Clerk shall examine each such petition so filed with ~~him~~ the City Clerk and shall, not later than thirty (30) days after the date of filing, transmit to the Council a certificate that he/she has examined it and found that it complies or does not comply, as the case may be, with the requirements of the law. If, within thirty (30) days after the filing

of any such petition, a written objection thereto is filed with the Supreme Court, or any Justice thereof, of the judicial district in which the city is located, such Court or Justice shall determine any question arising thereunder and make such order as justice may require. Such proceeding shall be heard and determined in the manner prescribed by § 335 of the Election Law.

In the event that the Council shall determine to submit a proposition for the approval of a bond ordinance at a special election, the Council shall, in a resolution making the determination, specify the date of such special election, whether voting machines or paper ballots will be used, the persons to act as election inspectors as hereinafter provided, the hours during which the polls will remain open at such special election, which shall include at least three (3) consecutive hours between 7:00 in the morning and 7:00 in the evening, the polling place or places therefor and the text of the proposition to be submitted thereat. The City Clerk shall cause notice of any such special election to be published once in the official newspaper of the city not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall state the date of the election, the hours during which the polls will remain open, the polling place or places and the text of the proposition to be submitted thereat. Such notice shall also contain an abstract of the bond ordinance referred to in such proposition, briefly summarizing the subject matter thereof. The Council shall select from the election inspectors previously designated for general election purposes pursuant to the Election Law not fewer than two (2) nor more than four (4) persons to act as election inspectors for each polling place at which such a special election shall be held. In other respects, such special election shall be conducted, the votes canvassed and the results certified and returned so far as practicable in the manner prescribed by the Election Law to the extent not inconsistent with this section.

The qualifications for voting on a proposition for the approval of a bond ordinance submitted at either a special or general election pursuant to this section shall be the same as the qualifications for voting upon the election of city officers.

#### **Sec. ~~89.0805~~. Notice of referendum.**

In the event that a proposition for the approval of any bond ordinance shall be submitted at an election pursuant to this Article, the City Clerk shall cause a notice of such submission to be published once not less than ten (10) nor more than twenty (20) days before the date of such election, which notice shall set forth the text of such proposition, summarizing the subject matter thereof and stating that a true copy of the same may be obtained, free of charge, from the City Clerk.

#### **Sec. ~~89.1006~~. Exceptions to referendum.**

The provisions of this Article pertaining to permissive referenda shall not apply to any bond ordinance authorizing the issuance of bonds in an amount of two hundred fifty thousand dollars (\$250,000.) or less, nor to any bond ordinance authorizing the issuance of bonds for capital improvements of which more than fifty per centum (50%) of the cost thereof is to be

levied by assessments upon property especially benefited thereby, nor to any bond ordinance authorizing the issuance of bonds for the payments of judgments or compromised or settled claims against the city or awards or sums payable by the city pursuant to a determination by a court, officer, body or agency acting in an administrative or quasi-judicial capacity, or providing for the construction or maintenance of sewer treatment facilities or water pollution control facilities.

**Sec. ~~89.1207~~. State and county taxes.**

Payment of all taxes for state and county purposes shall be made as collected, or by the end of the calendar year for which the warrant for the same is delivered, whichever shall occur first, without interest or penalty.

**Article 910. General Provisions**

**Sec. 910.00. Personal financial interest.**

No officer or employee of the City of Beacon shall engage in any conduct constituting a conflict of interest or a prohibited action, as provided in Article 18 of the General Municipal Law of the State of New York, nor shall such officer or employee fail to disclose any interest required to be disclosed under such law. In addition to any penalty provided by state law, such officer or employee who shall knowingly and intentionally violate this section shall be removed from office or employment in the manner provided by law or by this Charter.

**Sec. 910.0201. Prohibitions.**

A. Activities prohibited.

- (1) No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of age, handicap, race, sex or political or religious opinions or affiliations.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative officer shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his /her test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive city position.

(5) No person who holds any elected or compensated appointive city position shall solicit any contribution to the campaign funds of any political party or any candidate for public office during working hours, nor shall such person at any time use the name of the city or his/~~her~~ office for such purposes.

B. Penalties. Any officer or employee of the city who shall: (1) make a false or deceptive report or statement in the course of his/~~or~~ her duties; (2) receive compensation except for payment from the city for performance of any official duty; or (3) accept or receive any gratuity from any person whose interest may be affected by his/~~her~~ official action shall be guilty of a misdemeanor and, if convicted, shall forfeit his/~~or~~ her office or employment immediately upon conviction.

#### **Sec. ~~910.042~~. Charter review.**

The Mayor, with the consent of the City Council, shall appoint a commission at least every ten (10) years after the effective date of this Charter to review the Charter and to make recommendations to the Mayor and the City Council for revision or amendment.

#### **Sec. ~~910.0603~~. Amendment ~~or~~ repeal Procedures.**

This Charter shall only be amended by adoption of a local law pursuant to the procedures set forth in the Municipal Home Rule Law.

#### **Sec. ~~910.0804~~. Penalty for violation.**

Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

#### **Sec. ~~910.1005~~. Limitation of actions against city.**

A. No action or proceeding to recover or enforce any claim, debt or demand against the city shall be brought until the expiration of thirty (30) days after the same has been presented, in writing, to the City Council. All actions brought against the city, upon any contractual liability, express, ~~or~~ implied or quasi-contract, must be begun within one (1) year and ninety (90) days from the time when the cause of action accrued; or, for injury to a person or property because of negligence, within one (1) year from the

time of receiving such injuries; and, in all other cases, within six (6) months after the cause of action accrued. No civil action shall be maintained against the city for damages or injuries to persons or property sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, path or place or in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, grating, opening, drain or sewer being of faulty design or construction, defective, out of repair, unsafe, dangerous or obstructed unless, previous to the occurrence resulting in such damages or injuries, written notice of the existence of such snow or ice at the particular place or of the defects or unsafe, dangerous or obstructed condition of the particular place shall have been filed in the office of the City Administrator of the city, and it shall be made to appear that there was a failure or neglect within a reasonable time after the filing of such notice to remedy the condition.

B. No civil action shall be maintained against the City of Beacon for damages or injuries to person or property sustained in consequence of the existence of a defect in any of the playground equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon or for a defect in any such equipment, place or facility maintained at a public bathing beach, skating rink or pond owned, operated or maintained by the City of Beacon unless, prior to the occurrence resulting in such damage or injury, written notice of the existence of such defect relating to the particular equipment, playing fields, paths, grounds of any playground or public park owned, operated or maintained by the City of Beacon shall have been filed in the office of the City Administrator of the city and unless it shall be made to appear that there was a failure or neglect to remedy or repair such alleged defect or condition in the equipment, facility or place or to cause the equipment, facility or place to be otherwise made reasonably safe within a reasonable time after the filing of such notice.

C. All claims against the city for damages or injuries to person or property alleged to have been caused by the misfeasance or negligence of the city or any of its officers or employees shall be presented to the City Council, in writing, within ~~thirty ninety~~ (320) days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where and the circumstances under which the damages or injuries were sustained and the cause thereof; it shall also state, so far as then practicable, the nature and extent of the damages or injuries; shall also state the place of residence of the claimant by street and number, and, if there be no street or number, it shall contain such statement as will disclose the place of residence; and all such claims shall be verified by the oath of the claimants. The omission to present such claim within ~~thirty ninety~~ (320) days from the date when such alleged injuries were received and to commence an action within one (1) year ~~and ninety (90) days~~ from the time of such alleged injuries shall be a bar to any claim or action therefor against the city; but no action shall be brought upon any such claim until thirty (30) days have elapsed after the presentation of the claim to the City Council.



- D. Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations which is applicable to this class of actions, but on the contrary shall be held to be an additional requirement to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.
- E. The place of trial of all actions or proceedings against the city or any of its officers, boards or departments shall be the County of Dutchess.

## **~~Article 10. Transitional Provisions~~**

### **~~Sec. 10.00. Charter replacement.~~**

~~This Charter shall replace the previous City Charter in its entirety.~~

### **~~Sec. 10.02. Transitional provisions.~~**

~~Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.~~

### **~~Sec. 10.04. Rights of officers and employees.~~**

- ~~A. All elected officials shall continue to hold their respective offices until January 1, 1992, and shall perform the duties of their respective offices as prescribed herein.~~
- ~~B. Appointed officials whose offices are continued pursuant to this Charter shall continue to hold their respective offices until the expiration of the term for which they were originally appointed and shall perform the duties of their respective offices as prescribed herein and shall be subject to removal only as originally provided at the time of their appointment.~~

~~Continuation of powers and duties. Any powers which are conferred and duties which are imposed upon an officer, board, commission or department under any laws of the State of New York or by any ordinance or local law in force at the time this Charter takes effect shall be retained and exercised by the officer, board, commission or department except as amended by the provisions of this Charter.~~

- ~~C. Continuation of status and classification. All officers and employees of the city who shall hold office or be employed subject to Civil Service Law and Rules when this Charter shall take effect shall continue in their respective positions and employment and in their respective civil service classifications and status as officers or employees of the city, consistent with the provisions of this Charter.~~

### **~~Sec. 10.06. Transfer of officers and employees.~~**

~~Pursuant to the provisions of this Charter, any functions, powers or duties heretofore exercised by an officer, department, board, commission or agency, including the officers and employees in the classified civil service, who are engaged in the performance of such functions, powers or duties at the time this Charter takes effect shall be transferred to the office, department, board, commission or agency to which such functions, powers or duties are assigned by this Charter without examination and without affecting existing compensation, pension or retirement rights, privileges or obligations of such officers and employees.~~

~~All records, property and equipment whatsoever of any office, department, board, commission or agency the powers and duties of which are assigned to any other office, department, board, commission or agency by this Charter shall be transferred and delivered to the office, department, board, commission or agency to which such powers and duties are assigned.~~

#### **~~Sec. 10.08. Transfer of powers.~~**

~~If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the City Council.~~

#### **~~Sec. 10.10. Severability.~~**

~~If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.~~

#### **~~Sec. 10.12. Effect of Charter on existing provisions.~~**

~~All existing city ordinances, resolutions, orders and regulations shall continue to be in full force and effect after the effective date of this Charter, except as to those matters which are expressly and specifically addressed by this Charter. All local laws previously enacted shall remain in full force and effect.~~

#### **~~Sec. 10.14. Repealer and savings clause.~~**

~~All existing city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are hereby repealed only to the extent to which they are directly repealed or annulled by this Charter. Otherwise, all such existing city ordinances, resolutions, orders and regulations adopted pursuant thereto shall continue to be in full force and effect after the adoption and effective date of this Charter.~~

#### **~~Sec. 10.16. Effective date of new Charter.~~**



~~Upon the adoption of this Charter at the referendum or election held in 1989, it shall thereupon become effective insofar as and to the extent that it governs and controls the election of the Mayor, Council members, City Judge and county legislators in the primary and general elections of 1991. In all other respects this Charter shall become effective on the first day of January 1992.~~

~~**Sec. 10.18. Code review task force.**~~

~~Upon adoption of this Charter, the City Council shall appoint, within ninety (90) days thereafter, a task force to review the administrative codes and local laws of the City of Beacon for consistency with this Charter and to make written recommendations to the City Council to prepare the existing government for the transition to the new form of government adopted under this Charter.~~

**Article 11. Collection of Taxes**

~~**Sec. 11.00. Levy and collection of taxes.**~~

~~Any and all issues relating to the collection of Beacon City taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 9, entitled, "Levy and Collection of Taxes," as the same may be amended from time to time.~~

~~**Sec. 11.02. Procedures for enforcement of collection of delinquent taxes.**~~

~~Any and all issues relating to the enforcement of collection of delinquent taxes are hereby governed by the applicable provisions of the New York State Real Property Tax Law, Article 11, entitled, "Procedures for Enforcement of Collection of Delinquent Taxes," as the same may be amended from time to time.~~

**Section 3. Ratification, Readoption and Confirmation**

Except as specifically modified by the amendments contained herein, Chapter C , entitled “Charter” of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 4. Numbering for Codification**

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “ Local Law” shall be changed to “ Chapter,” “ Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 5. Severability**

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

**Section 6. Effective Date**

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Proposed Building Moratorium**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
LL Draft Moratorium 8-28	Local Law
Zoning Proposal - L. Kyriacou	Backup Material

**LOCAL LAW NO. \_\_\_\_ OF 2017**

**CITY COUNCIL  
CITY OF BEACON**

**LOCAL LAW REGARDING  
ENACTMENT OF A MORATORIUM**

A LOCAL LAW to enact  
moratorium on  
residential development

BE IT ENACTED by the City Council of the City of Beacon as follows:

**SECTION 1. TITLE**

This local law shall be entitled, “A Local Law, pursuant to Municipal Home Rule Law § 10, to enact a moratorium with respect to land use approvals to review certain special use, site plan, and subdivision applications involving residential development, including single family and mixed use development within the City of Beacon, by means of amending Chapter 223, Zoning, of the Code of the City of Beacon.”

**SECTION 2. LEGISLATIVE INTENT AND PURPOSE**

The City Council hereby finds as follows:

1. The City of Beacon adopted a Comprehensive Plan in 2007 and updated it in 2017. These Comprehensive Plans encouraged development within the City of Beacon, with a special focus on opportunities for residential development along Main Street’s Central Business District, the Central Main Street, Linkage and Waterfront Districts. However, in the past approximately three years 1,200 residential units have been approved or are pending approval. The City is concerned that such a large number of housing in such a short time will stress the City’s water supply. The City’s vision was that development would be more gradual and take place over a period of years. The City’s water supply is of special concern. The City has enough water to maintain a population of approximately 17,800 people, and the additional units (approved, but not built, pending before the land use boards and those preliminarily discussed with the Building Department) have pushed the population close to that number. In connection with water supply, the City hired Leggette, Brashears & Graham, Inc (LBG) to look into the development of a new well on the existing Water Treatment Plant property. That

location was found unsuitable for potable water because the property does not have a sufficient water yield. The accelerated development of housing within the City will lead to greatly increased consumption of services and resources.

2. The City is participating in a grant awarded by the NYS Department of State, along with other communities, to develop a Community Profile, Housing Profile and Community Development Plan for Beacon. Patterns for Progress is administering this work. The Community Development Plan will include the data and trends from the community and housing profiles as well as a set of recommendations and strategies for the City to aid in its continuing revitalization efforts. The plan will include a) Research and data trend analysis based on the Community and Housing Profiles; b) Major project pipeline report; c) Community Engagement and Visioning sessions with summary reports; and d) Recommendations and strategies for each community.
3. It is the intent and purpose of this Local Law to establish a temporary moratorium on residential and commercial development in order to protect the City and its residents, businesses and visitors from the potential impacts of new development on the City's water supply given the accelerated rate of development within the City. Imposition of a moratorium will allow the City sufficient time to conclude the preparation of comprehensive studies and plans for the City's water supply and the regulation of residential development within the City of Beacon, including those studies being prepared by Patterns for Progress referenced above.

### **SECTION 3. MORATORIUM**

1. Effective immediately and continuing for a period of six (6) months following the date on which this Local Law is filed with the Secretary of State, no application for special use permits, site plan approval, or subdivision approval will be processed by the City or any land use board, no submission of any application or consideration of any application for any permit or approval shall be accepted, and no permit or approval will be issued by the City for the establishment of new residential, commercial or mixed use development within the City until this ordinance has expired or has been repealed according to applicable law.
2. Any application for residential, commercial or mixed-use development submitted to the City before July 3, 2017 or pending before a land use board as of the July 11, 2017 Planning Board agenda or the July 18, 2017 Zoning Board of Appeals Agenda is exempt from this moratorium. Any building permit application for a single family home and any application seeking a modification or extension of an existing approval that does not increase the density (by unit or bedroom count) shall be exempt from this moratorium.
3. The City Council may, by resolution, terminate this moratorium prior to its expiration, or alternatively, extend the moratorium for a period of ninety (90) days or such other time period, as the City Council, in its sole discretion, deems necessary to allow for the

comprehensive study of the impacts of development on the City's water supply and preparation and adoption of regulations pertaining to the impacts of such development.

4. In the event this Local Law causes a severe and substantial financial hardship to a property owner, an application may be made in writing to the City Council requesting an exemption from the provisions herein. After due notice and a public hearing on such application, the City Council may grant an exemption with such conditions as it may deem reasonable and necessary, provided such exemption is the minimum relief necessary. No exemption shall be granted pursuant to this section, except upon a determination by the City Council that severe and substantial financial or economic hardship was directly created as a result of the application of the provisions of this Local Law.
5. Pursuant to Municipal Home Rule Law Section 10, this Local Law shall supersede any inconsistent provisions of New York State General City Law for the entire duration of this moratorium, including any extension thereof.

#### **SECTION 5. SEPARABILITY**

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

#### **SECTION 6. EFFECTIVE DATE**

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.



- **Potential Rezoning:** Identify and rezone select residential areas for job-creation activities. The largest areas I can think of at first glance are (a) Beacon Correctional Facility (which the State is looking for economic development but is still zoned residential), and (b) the areas around Dennings Point / Craig House (which I understand was looked at for a possible university campus). I am not saying these are the sites to rezone – rather we should look at all possibilities. We should look to adjust certain zoning that currently permits commercial/industrial to requiring them in some circumstances – e.g., for portions of FCD zone within a few blocks of Main Street. We should consider special zoning for uses such as medical/dental offices, which require specialized construction, or other professional offices for small and medium size firms.
- **Road Access:** Plan out a specific connection for a non-residential road from Route 52 to the Beacon Correctional Facility site, and as well from that site to Route 9D or I-84. Good access plans will help attract the best proposals for economic development, and could find funding sources.

**3. Fishkill Creek Development (FCD) Zone:** Our stated purposes for the FCD zone are to encourage redevelopment of industrial properties and to establish greenways/trails along the creek. We did not cover the FCD in our recent Comprehensive Plan update, and there are certain aspects we should consider updating in light of changes and experience since enactment. We should look to expand our greenway trails, encourage employment-generating uses, and limit development to industrial sites.

- **Proposal:** Review the predicates and main components of our FCD zone to confirm whether they still are appropriate and/or make any changes. This review should include addressing:
  - How density is determined and whether explicit density limits or ranges are appropriate.
  - How the special permit criteria should be applied to determine whether a development concept plan “will fulfill the purposes of FCD District” and “will be in harmony with the appropriate and orderly development of the City.”
  - How FCD design standards have worked in practice – including that proposals “must attain high standards of design,” provide view corridors, use high quality architecture and materials, avoid long uninterrupted walls, and be convertible to non-residential use – and consider whether stronger language is required to achieve the desired purposes.
  - Whether job-generating uses should be required as opposed to being optional, especially for portions of the FCD zone within a couple blocks of Main Street.
  - How greenway trails and open space have in practice fit in FCD zone and whether changes are appropriate – especially if a greenway/open space expansion is desired.

**4. Greenway Expansion and Tioronda Bridge:** The Greenway is a huge asset for our community, and we should expand it. The Comprehensive Plan has a good description of progress on Greenway and other trails. We should work with Greenway representatives to brainstorm how we can expand our trail network, integrate into it our the Tioronda (South Avenue) and Bridge Street bridges, and translate our expanded plans into zoning and funding.

- **Proposal:** Create a Greenway/trail expansion visioning effort. Look specifically at creating a parallel Greenway trail on the other side of Fishkill Creek (from the Tioronda Bridge to Wolcott Avenue), and linking it to other trails and the rest of the Hudson Highlands. Engage resources to search for funding of a bridge at South Avenue that does not require a two-lane vehicular “thoroughfare” bridge. If a two-lane bridge is built at South Avenue, identify an alternative site on Fishkill Creek between South Avenue and Wolcott to build a restoration (or near-restoration)



of the Tioronda Bridge, and integrate it into the Greenway trail network. Plan out how to integrate and fund the Bridge Street span in the trail network.

**5. Historic District & Landmark Overlay (HDLO) Zone:** We explicitly agreed when adopting our Comprehensive Plan update to revisit our Historic Overlay zoning for additional properties and a review of its mechanics. There are a number of sites where our Historic Overlay zone protections should be extended. I am also concerned with whether our protections work in practice for some situations. As a single example, we have observed development proposals in the HDLO zone that could adversely affect the setting of the Howland Center, one of Beacon's historic jewels.

- **Proposals:**
  - **Additions:** Direct the Building Dept, Planner & Historical Society to quickly review properties for addition to the HDLO zone. The review should include (but is not limited to): North Ave, Lafayette, Edgewater, Bayview, South Ave, Wolcott, Rombout, Beacon, Cliff, Dewindt, W Center, Main, Dutchess Terrace, Church, Willow, Oak, Fishkill, Tioronda, the entire Fishkill Creek Development zone, Churchill, Union, Robinson, Howland, E Main, Schenck, Davis, Falconer, Wodell, Liberty, Washington and Depuyster.
  - **Nearby Impacts:** Require a proposed HDLO exterior alteration or special use permit to review the impact on other HDLO properties; require a finding that the proposal does not adversely affect the historic character of HDLO properties and neighborhood.
  - **Approvals:** Expand the special use permit criteria of "maintaining the architectural and historical integrity" to include not only the structure, but also the historic landscaping, nearby historic properties and any historic district. Direct our Planner to review all certificate of appropriateness criteria for any strengthening suggestions.
  - **Planning Fees/Assessment:** Exempt "small" projects (e.g., five or fewer residential units) from any planning/building fees, where the sole purpose is to obtain a certificate of appropriateness to comply with HDLO zoning law. Request that our Planner and Assessor review the assessment abatement section, to determine whether it has been applied and how best to provide this benefit to HDLO property owners.

**6. Planning/ZBA Support:** Finally, we need to examine how our zoning and planning laws are executed in practice by our Planning Board, Zoning Board of Appeals and City Council (the latter for special use permits). I have personally attended recent PB/ZBA meetings, and find them overwhelmed at the one extreme, and ignoring legal and professional advice at the other extreme. It must be especially daunting when faced with proposals supported by extensive legal and professional staff. Some combination of training, communication, staffing and legal "teeth" seems clearly in order.

- **Proposal:** Task our Planner or other professional to provide a review with recommendations of the execution of our planning and zoning laws, with a focus on the details of execution and outcome, and on the workings of our boards.
- **Legislation:** Based on those recommendations, enact more specific "teeth" in our planning and zoning laws, and consider turning items that some might argue are a "matter of right" into items based solely on the discretion of the relevant board and in return for provided public benefits.
- **ZBA:** Consider requiring a City Council recommendation (after the Planning Board recommendation) for ZBA actions involving larger (e.g., greater than 10 units) proposals.
- **Studies:** Consider how to objectively review supporting studies (traffic, school impacts), e.g., by developing our own studies, using our own experts or getting appropriate training.

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Budget Amendements**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
Budget Amendments 09.05.17	Budget Amendment

Council Budget Amendments  
September 5, 2017 Meeting

1. Amend the 2017 Highway Budget to account for unanticipated repairs to truck 54. Below is the proposed budget amendment:

**Transfer to:**

A 5110.447300	REPAIR OF EQUIPMENT	<u>\$ 10,073</u>
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**Transfer from:**

A 1990.400001	CONTINGENCY FUND	<u>\$ 10,073</u>
---------------	------------------	------------------

2. Amend the 2017 Fire Budget to account for salary increases for the 2017 settlement of the 2013-2017 IAFF contract. Retro pay for the 2013-2016 year was accounted for in 2016. This budget amendment accounts for salary increases that was budgeted for in contingency in anticipation of the contract settlement. It also accounts for 2017 portion of the retro payment.

**Transfer to:**

A -03-3410-101000-	REGULAR SALARIES	\$ 75,000
A -03-3410-105101-	OVERTIME	14,210
A -03-3410-820000-	SOCIAL SECURITY	6,825
	Total	<u>\$ 89,210</u>

**Transfer from:**

A -01-1990-400001-	CONTINGENCY FUND	<u>\$ 89,210</u>
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3. Amend the 2017 Fire budget to account for the payment for accumulated and unused time and contractual obligations for a career Firefighter upon retirement including hiring a new career firefighter and sending to the fire academy:

**Transfer to:**

A -03-3410-190000-	SEVERANCE/RETIREMENT PAY	\$ 34,940
A -03-3410-101000-	REGULAR SALARIES	23,000
A -03-3410-820000-	SOCIAL SECURITY	4,432
	Total	<u>\$ 62,372</u>

**Transfer from:**

A -01-1990-400001-	CONTINGENCY FUND	\$ 55,973
A -01-1990-400004-	CONTINGENCY-RETIREMENT	6,399
	Total	<u>\$ 62,372</u>

Respectfully submitted,  
Susan K. Tucker CPA

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Greenway Conservancy Trail Grant**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
Res. Greenway Grant	Resolution



**CITY OF BEACON  
CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_ OF 2017**

**RESOLUTION APPROVING AND ENDORSING A GRANT UNDER THE HUDSON RIVER  
VALLEY GREENWAY GRANT PROGRAM FOR THE PROJECT KNOWN AS THE  
BEACON HUDSON RIVER TRAIL**

**WHEREAS**, the City of Beacon is applying to the Hudson River Valley Greenway for a grant under the Hudson River Valley Greenway Grant Program for a project entitled The Beacon Hudson River Trail, to be located in the City of Beacon adjacent to the Beacon Metro-North Railroad,

**WHEREAS**, the grant application requires the applicant municipality to obtain the approval/endorsement of the governing body of the municipality or municipalities in which the project will be located;

**NOW, THEREFORE**, be it resolved that the governing board of the City of Beacon hereby does approve and endorse the application for a grant under the Hudson River Valley Greenway Grant Program, for a project known as The Beacon Hudson River Trail and located within this community.

\_\_\_\_\_  
Date of Adoption

\_\_\_\_\_  
Name of Municipal Clerk

\_\_\_\_\_  
Signature

<b>Resolution No. _____ of 2017</b>			<b>Date: <u>September 5, 2017</u></b>				
<input type="checkbox"/> <input type="checkbox"/> Amendments						<input type="checkbox"/> 2/3 Required	
<input type="checkbox"/> <input type="checkbox"/> Not on roll call.			<input type="checkbox"/> On roll call			<input type="checkbox"/> 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		<b>Ali Muhammad</b>					
		<b>Omar Harper</b>					
		<b>Lee Kyriacou</b>					
		<b>George Mansfield</b>					
		<b>Pam Wetherbee</b>					
		<b>Peggy Ross</b>					
		<b>Randy Casale</b>					
<b>Motion Carried</b>							

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Sept. 5 - Proposed Local Law Concerning the Disclosure of Information from City Applicants**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description

LL Entity Disclosure

Type

Local Law

DRAFT LOCAL LAW NO. \_\_\_\_ OF 2017

CITY COUNCIL  
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND SECTIONS 195-12 AND  
CHAPTER 223  
OF THE CODE OF THE  
CITY OF BEACON

A LOCAL LAW to amend  
Sections 195-12 and Chapter  
223 of the City Code  
regarding Disclosure of  
information regarding an  
Applicant.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Section 195-12 of the Code of the City of Beacon entitled “Initial Conference and Review” is hereby amended as follows:

§ 195-12 **Initial conference and review.** This step is recommended for the benefit of the applicant, but is not required. If followed, the procedure shall be as follows:

**A.**

Initial conference. The applicant should notify the Planning Board Secretary, at least one week in advance of a regular Planning Board meeting, of his desire to be placed on the agenda for an initial conference. At such conference, he shall present a sketch layout of the proposed subdivision. It shall include a site location sketch (at a scale of one inch equals 800 feet) indicating the applicant's entire holdings in relation to neighboring streets, private roads and properties, and shall show the general nature of the proposed arrangement of streets, private roads, lots, recreation areas, and the proposed concept for providing utility service. The applicant should also discuss with the County Health Department its requirements in connection with subdividing. The sketch layout shall be drawn on a topographic map with a vertical contour interval of no more than five feet, at a scale of no smaller than one inch equals 100 feet. It shall be submitted in four copies. The applicant shall also provide the information required in Section 223-62.

**B.**

Field trip. After the initial conference, the Planning Board may schedule a field trip to the proposed subdivision site. The applicant, or his representative, should attend the site

inspection and, prior to it, should have the center line of all proposed streets and private roads located by temporary stakes.

**C.**

Planning Board recommendations. At or subsequent to the field trip, the Planning Board shall advise the applicant, or his representative, of the additions and modifications, if any, which should be made if an application for subdivision approval is to be submitted.

**Section 2.** Chapter 223 of the City Code entitled “Administration and Enforcement” is amended to add a new Section 223-62 as follows:

**§ 223-62 Disclosure.**

Every application, petition or request submitted for a variance, amendment, change of zoning, any license, certificate or permit, special use or exception, approval of plot plans or subdivision maps, with respect to the use, improvement change or alteration of any land, building or structure erected or to be erected thereon and every application for a building permit or certificate of occupancy shall, in addition to the general requisites for such application, petition or request and at the time of filing such application, petition or request, be accompanied by a sworn statement which shall contain the following information, where required:

- A. If the affiant is an individual, he or she shall set forth his or her name, residence address and his or her residence telephone number.
- B. If the affiant is a partnership, joint venture or other business entity, except a corporation, it shall set forth:
  - (1) The name, address and telephone of the business entity or partnership.
  - (2) The date such business entity or partnership was established or created.
  - (3) The place where such business entity or partnership was created or established and the official Registrar's or Clerk's office where the documents and papers creating or establishing such business entity or partnership were filed.
  - (4) The names, residence addresses and residence telephone numbers of all parties in interest in such business entity or partnership, showing the nature and extent of the interest.
- C. If the affiant is a corporation, it shall set forth the following:
  - (1) The name, principal business address and telephone number of the corporation.
  - (2) The place, date and method of incorporation and the official place where the documents and papers of incorporation have been filed and the name and address of each incorporator.



(3) The name, residence address and telephone number of every officer, director and shareholder as of the date of filing or submission of the application, request or petition.

(4) The name and business or residence address and telephone number of all persons to whom corporate stock has been pledged, mortgaged or encumbered and with whom any agreement has been made to pledge, mortgage or encumber said stock.

D. The name, residence or business address and telephone number of all owners of record of the subject property or any part thereof; the date and manner title was acquired; and the date and place where the deed or document of conveyance was recorded or filed.

E. The name, residence or business address and telephone number of each person having any mortgage, encumbrance or other interest (recorded or unrecorded) in the subject property, together with the nature and extent thereof.

F. Whether any owner, of record or otherwise, is an officer, director, stockholder, agent or employee of any person referred to in Subsection A, B, C or E of this section.

G. Whether any person referred to in Subsection A, B, C, D or E of this section was known by any other name within five (5) years preceding the date of the application, request or petition, and, if so, such other names.

H. Whether any person named in Subsection A, B, C, D or E of this section is an official, elected or appointed, or employee of the City of Beacon or related, by marriage or otherwise, to an official or employee of the City of Beacon and, if so, the nature of such relationship.

I. The name and address of each person, business entity, partnership and corporation in the chain of title of the subject premises for the five (5) years next preceding the date of the application, request or petition.

J. If the applicant is not one of the record owners of the subject property, the interest of the applicant in the subject property and the relationship to the record owners. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modifications and amendments thereto, shall be submitted with the application.

K. Where the record owner or contract vendee is a corporation, the following additional information shall be submitted with the application:

(1) The name and principal business address and telephone of the corporation.

- (2) The method, date and place of incorporation, together with the name and address of each incorporator and the place where the documents of incorporation have been filed.
- (3) The name, residence or business address and telephone number of each officer, director and shareholder of the corporation.
- (4) Whether any shares of the stock of the corporation or of any stockholder have been pledged, mortgaged or encumbered and, if so, the name and address of each person having, holding, owning or claiming such interest.

L. Whether the present owners, or any of them, have entered into any contract for the sale of all or any part of the subject property and, if in the affirmative, there shall be submitted a duplicate original or photocopy of the full and complete contract of sale, including all riders, modifications and amendments thereto.

M. Such additional information as may be requested by the board, agency or commission having jurisdiction over such application, request or petition, pertaining to ownership, operation or control of the subject property.

N. The provisions of § 80-1C(2), (3) and (4) and K(2), (3) and (4) shall not apply where the corporation named in said sections is a corporation the shares of stock of which are publicly traded on a recognized stock exchange.

O. In the event that there is any change in any matter set forth on any affidavit submitted hereunder prior to the time a determination is made concerning the subject application, request or petition, the affiant shall file a supplemental affidavit within forty-eight (48) hours after such change has occurred, giving the full details thereof and in compliance with the requirements of this chapter, and shall thereafter be subject to all the requirements set forth in this chapter.

### **Section 3. Ratification, Readoption and Confirmation**

Except as specifically modified by the amendments contained herein, Chapter 191 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

### **Section 4. Severability**

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

been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

**Section 5. Effective Date**

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

DRAFT

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Sept. 5 - Proposed Local Law Concerning Peddling and Soliciting**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description

LL Peddling and Soliciting

Type

Local Law

LOCAL LAW NO. \_\_\_\_ OF 2017

CITY COUNCIL  
CITY OF BEACON

PROPOSED LOCAL LAW AMENDING  
CHAPTER 163 OF THE CODE OF THE CITY OF BEACON

A LOCAL LAW to  
amend Chapter 163 of  
the Code of the City of  
Beacon concerning  
Peddling and Soliciting

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter 163 of the Code of the City of Beacon, entitled “Peddling and Soliciting” is hereby amended to add subsection 9.1 as follows:

**§ 163-9.1 “Do Not Solicit” list.**

- A. The City Clerk shall maintain a “Do Not Solicit” list of City residents who do not wish to allow registrants under this chapter upon their property. The “Do Not Solicit list shall contain only the street address of the property and no personal ownership information.
- B. All residents shall be permitted to have their property listed on the "Do Not Solicit" list by submitting a written or electronic request to the office of the City Clerk.
- C. On a quarterly basis, the City Assessor shall notify the City Clerk of any change in ownership of property within the City, and the City Clerk shall remove from the “Do Not Solicit” list any property for which ownership shall have changed subsequent to the time of listing.
- D. Every registrant under this chapter shall be issued a copy of the then-current “Do Not Solicit” list simultaneously with the license issued by the City Clerk pursuant to § 163-10 hereof. Where more than one individual will be engaged in canvassing or soliciting activities on behalf of an organization, group, company or other entity, it shall be the obligation of that entity to provide true copies of the “Do Not Solicit” list to each such

individual. No canvasser or solicitor licensed under § 163-7 of this Chapter shall enter onto or into any property that is listed on the “Do Not Solicit” list.

- E. No canvasser or solicitor registered under this Chapter shall enter onto or into any property on which there is a sign or signs posted stating “No Solicitors” or conveying a similar message forbidding the entry of any person onto the property. It shall be the responsibility of registered canvassers and solicitors to check each residence for the presence of any such notice.
- F. Being listed on the “Do Not Solicit” list or the presence of such a sign shall constitute sufficient notice to any registered canvasser or solicitor of the intent of the occupant of the residence to be free from such solicitation or canvassing.
- G. It shall constitute a violation of this chapter punishable under § 163-12 for any registered canvasser or solicitor to go upon any premises and ring a doorbell, knock, or make or create any sound designed to attract the attention of the occupant with the purpose of gaining access to the occupant or entering onto or into the premises for the purpose of engaging in soliciting or canvassing where the premises is either included on the “Do Not Solicit” list or posted in the manner described in Subsection E of this section.

## **Section 2. Ratification, Readoption and Confirmation**

Except as specifically modified by the amendments contained herein, Chapter 163 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

## **Section 3. Numbering for Codification**

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

## **Section 4. Severability**

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

**Section 5.** Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Sept. 18 - Proposed Local Law Regarding the Installation of Water and Sewer Utilities**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description

Type

LL Install Water and Sewer Utilities

Local Law



**DRAFT LOCAL LAW NO. \_\_\_\_ OF 2017**

**CITY COUNCIL  
CITY OF BEACON**

**PROPOSED LOCAL LAW TO REPEAL  
CHAPTER 191, ARTICLE III OF THE CODE OF THE  
CITY OF BEACON**

A LOCAL LAW to repeal  
Chapter 191, Article III  
concerning the Installation  
of Water and Sewer Utilities.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter 191, Article III of the Code of the City of Beacon entitled “Installation of Water and Sewer Utilities” is hereby repealed in its entirety.

**Section 2.** Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 191 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 5.** Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Sept. 18 - Proposed Local Law Regarding Water Cross Connections**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
Memo Cross Connections	Cover Memo/Letter
LL Cross Connections	Local Law

## MEMORANDUM

**TO:** City of Beacon City Council

**FROM:** Keane & Beane, P.C.

**RE:** Proposed Local Law on Water Cross-Connection Control Program

**DATE:** August 7, 2017

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On June 12, 2017, the City Council reviewed the draft local law regarding water cross-connections. The proposed local law has been revised to address the Council's concerns and incorporate recommendations discussed by the City Council and by City staff. This memorandum is a follow-up to our memorandum dated June 9, 2017 (copy attached) and focuses on the revisions made to the proposed local law.

Under the revised local law, the City will not be issuing permits for the construction of backflow devices. Staff believed that the permitting requirement imposed a significant burden on the City's Building and Water and Sewer Departments to issue the permits and set and collect any associated fees. The City's role under the revised local law is to determine whether a backflow device is needed and to determine what backflow device is required. Property owners are still required to obtain a permit from the New York State Department of Health (NYSDOH) to construct and install the City approved backflow preventer device. In addition, property owners are required to submit to the NYSDOH certification from an engineer which states that the installation of the work is in compliance with the approved plans and certification from an approved tester of backflow prevention devices that the installation was tested and is working as designed. Under the revised local law, these certifications must also be submitted to the City of Beacon.

The proposed local law applies to all properties in the City of Beacon that have a cross-connection. Under the proposed law, the Water and Sewer Department has the ability to determine whether an approved backflow device is required. The Water and Sewer Department will perform on-site evaluations and review plans for both new and existing installations to determine the type of backflow preventer required. The Building Department and the Water and Sewer Department will work together to carry out the Cross-Connection Control Program.

The revised local law also includes an exemption to the periodic testing requirement. All backflow preventer devices must be periodically tested, however, the revised local law provides that such testing is not required when the fixture isolation is achieved with the utilization of a non-testable backflow preventer. This revision came as a

recommendation from the Building Inspector and the Water and Wastewater Superintendent.

In addition, the revised local law adds a provision (Section 219-12.J) to specifically address new residential developments. All new residential buildings, which includes one-family, two-family, multiple dwelling, and mixed occupancy buildings, must install a residential dual check assembly. While residential properties are generally covered by the law, this provision clearly establishes a standard for new residential properties. In addition, please note that Section 135-29.A. provides that the water supply used for filling or for cleaning of swimming pools shall be clean and shall be protected against potential pollution from all sources, including cross-connection and backflow.

Under the revised local law, the penalties for any violation of the proposed local law are now the same as prescribed in City Code § 1-3. A violation shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding 15 days. Each day any violation continues constitutes a separate offence. The first draft of the local law did not reference City Code § 1-3 and only imposed a fine of \$250.

ecc: Anthony Ruggiero, City Administrator  
Tim Dexter, Building Inspector  
Ed Balicki, Water and Wasterwater Superintendent  
John Russo, P.E.

LOCAL LAW NO. \_\_\_\_ OF 2017

CITY COUNCIL  
CITY OF BEACON

PROPOSED LOCAL LAW AMENDING  
CHAPTER 219 OF THE CODE OF THE CITY OF BEACON

A LOCAL LAW to  
amend Chapter 219,  
Article III, Section 12  
concerning Cross-  
Connections

A LOCAL LAW to amend Chapter 219, Article III, Section 12 concerning Cross-connections.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter 219, Article III, Section 12, of the Code of the City of Beacon entitled “Cross-connections with other sources” is hereby amended as follows:

§ 219-12. Water Cross-Connections with other sources Control.

~~No pipe or fixtures connected with the mains of the City shall also be connected with pipes or fixtures supplied with water from any other sources, unless specifically approved by the Department of Health of the State of New York.~~

A. The intent of this article is:

- (1) To protect the public water supply served by the City of Beacon Water and Sewer Department from the possibility of contamination or pollution which could backflow or back-siphon into the public water system.
- (2) To promote the elimination or control of existing cross-connections, actual or potential, between its customer’s potable water system and nonpotable systems.
- (3) To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

## B. Authority

Pursuant to the Federal Safe Drinking Water Act of 1974 and statutes promulgated in Article 2 of the Public Health Law and in Part 5, Section 5-1.31, of the State Sanitary Code (10 NYCRR Part 5), the New York State Department of Health (NYSDOH) has undertaken a program for preventing water from unapproved sources from entering the public potable water system. Subpart 5-1 of the State Sanitary Code, Section 5-1.32, requires that the supplier of all public water shall protect the public water system by containing potential contamination within the premises of each individual water user.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **AIR GAP**

A physical separation sufficient to prevent backflow between the free flowing discharge end of the potable water system and any other system; physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

### **APPROVED**

Accepted by the New York State Department of Health, Dutchess County Department of Health and City of Beacon Water and Sewer Department meeting applicable specifications stated or cited in this regulation, or as suitable for the proposed use.

### **ATMOSPHERIC VACUUM BREAKER**

A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

### **AUXILIARY WATER SUPPLY**

Any water supply on or available to the premises other than the surveyor's approved public potable water supply.

### **BACKFLOW**

The flow of water or other liquids, mixtures or substances and/or positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

### **BACKFLOW PREVENTION DEVICE**

A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

### **BACK PRESSURE**

A condition in which the owner's system pressure is greater than the supplier's system pressure.

### **BACK-SIPHON**

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source, caused by a sudden reduction of pressure in the potable water supply system.

### **BAROMETRIC LOOP**

A fabricated piping arrangement rising at least thirty-five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.

### **CONTAINMENT**

A method of backflow prevention which requires a backflow prevention device at the water service entrance immediately after the water meter or, in the event of no meter, immediately after the point of entry.

### **CONTAMINANT**

Any physical, chemical, microbiological or radiological substance or matter in water.

### **CROSS-CONNECTION**

Any actual or potential connection between the public water supply and a source of contamination or pollution.

### **DEPARTMENT**

The City of Beacon Water and Sewer Department.

### **DEPARTMENT OF HEALTH**

The State of New York Health Department and its agent, the Dutchess County Department of Health.

### **DOUBLE CHECK VALVE ASSEMBLY (DCV)**

An assembly of two (2) independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

### **DOUBLE-CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT**

A device having two (2) spring-loaded check valves separated by an atmospheric vent chamber.

### **DWELLING, ONE-FAMILY**

A building containing not more than one dwelling unit occupied exclusively for residential purposes by one family.

### **DWELLING, TWO-FAMILY**

A building containing not more than two dwelling units occupied exclusively for residential purposes by two families living independently of each other.

### **DWELLING UNIT**

One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

### **FIXTURE ISOLATION**

A method of backflow prevention in which a backflow prevention device is located to correct a cross-connection at an in-plant location rather than at a water service entrance.

### **HOSE BIBB VACUUM BREAKER**

A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

### **OWNER**

Any person who has a legal title to or license to operate or habitat in a property upon which a cross-connection is present.

### **PERSON**

Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality of the United States or any other legal entity.

### **POLLUTANT**

A foreign substance that, if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

### **PRESSURE VACUUM BREAKER**

A device containing one (1) or two (2) independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Such device includes tightly closing shutoff valves on each side of the check valves and properly located test cocks for the testing of the check valves.

### **REDUCED-PRESSURE-PRINCIPLE BACKFLOW PREVENTER (RPZ)**

An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between two (2) check valves, tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of the check valves and the relief valve.

### **WATER SERVICE ENTRANCE**



The point in the owner's water system beyond the sanitary control of the City; generally considered on the outlet end of the water meter and always before any unprotected branch.

## **WATER, NONPOTABLE**

Water that is not safe for human consumption or that is of questionable potability.

## **WATER, POTABLE**

Water free from impurities in amounts sufficient to cause disease or harmful physiological effects.

### **D. Enforcement**

The Water Superintendent and/or City Engineer or his or her designee shall enforce this article and the cross-connection and backflow protection requirements, specifications, guidelines and facilities classifications of the NYSDOH and the Dutchess County Department of Health (DCDOH). Specifications, guidelines, facilities, classifications and other administrative requirements and information which shall be used to implement the requirements shall be on file in the Department and available for review.

### **E. Administration**

- (1) The Department will operate a cross-connection control program to include the keeping of necessary records, which fulfills the requirements of the NYSDOH's cross-connection regulations and testing of backflow prevention equipment.
- (2) The owners shall allow their property to be inspected for possible cross-connections and shall follow the provisions the Department's cross-connection control program as set forth by the City of Beacon.
- (3) If the Department requires that the public supply be protected by containment, the owners shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

### **F. Responsibilities.**

#### **(1) Department**

- (a) The Department will not allow any cross-connection to remain unless it is protected by an approved backflow prevention device, which will be regularly tested to insure satisfactory operation. If, in the judgment of the City, an approved backflow prevention device is required for existing installations, the City shall give notice in writing to said owner to install an approved backflow prevention device at each service connection to said premises. Hazardous conditions shall be addressed immediately. On new installations, the Department will provide on-site evaluation and/or review of plans in order to determine the type of backflow prevention device, if any, that will be required. Plans shall be signed and sealed by a currently licensed New York State professional engineer.

- (b) For premises existing prior to the start of this program, the Department will perform evaluations and review of plans and/or inspection of premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed; however, this time period may be shortened by the Department depending upon the degree of hazard involved and the history of the device(s) in question.
- (c) The Department shall inform the owners, by letter, of any failure to comply by the time of the first reinspection. The Department will allow an additional fifteen (15) days for the correction. In the event that the owners fail to comply with the necessary correction by the time of the second reinspection, the Department will inform the owners, by letter, that the water service to the owners' premises will be terminated within a period not to exceed five (5) days. In the event that the owners inform the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department but in no case will exceed an additional thirty (30) days.
- (d) If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately. If the Department determines that terminating water service is not feasible, the owner will be subject to fines listed in another section of this chapter.
- (e) The Department shall have on file a list of private contractors who are certified backflow device testers. The owner is responsible for all costs associated with the installation and testing of any backflow prevention device.
- (f) The Department will begin initial premises inspections to determine the nature of existing or potential hazards following the approval of this program by the City Council of the City of Beacon. Initial focus will be on high-hazard industries and commercial premises.

## (2) Owners

- (a) The owners shall be responsible for the elimination or protection of all cross-connections on their premises.
- (b) The owners, after having been informed by a letter from the Department, shall at their expense install, maintain, and test, or have tested, any and all backflow prevention devices on their premises. The owners shall be responsible for all costs associated with the installation and testing of backflow prevention devices.
- (c) After the Department determines the type of backflow prevention device, if any, required and approves the backflow prevention device, the owner shall submit an application to NYSDOH to obtain a permit to construct the approved backflow prevention device. The work shall be completed within ninety (90) days from receipt of the permit. Failure or refusal or inability on the part of the owner to install said device within ninety (90) days shall constitute grounds for discontinuing water service until such device has been properly installed.

- (d) After completion of installation of the backflow prevention device, the owner shall apply for a completed works permit by submitting to the NYSDOH a certification from an engineer which states that the installation of the work is in compliance with the approved plans and certification from an approved tester of backflow prevention devices that the installation was tested and is working as designed and approved and in accordance with the intent of these regulations.
- (e) The owner shall submit to the City of Beacon Water and Sewer Department and Building Department all certifications submitted to the NYSDOH including the certification that the installation of the approved backflow prevention device is in compliance with the approved plans and the certification that the installation was tested and is working as designed.
- (f) The owners shall correct any malfunction of the backflow prevention device which is revealed by periodic testing.
- (g) The owners shall inform the Department of any proposed or modified cross-connections of which the owners are aware but have not been found by the Department.
- (h) The owners shall not install a bypass around any backflow prevention device unless there is a backflow prevention device of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- (i) The owners shall install only backflow prevention devices which are shown on a NYSDOH list of approved backflow prevention devices.
- (j) Any owners having a private well or other private water source must obtain approval from the Department if the well or source is cross-connected to the Department's system. Permission to cross-connect may be denied by the Department. The owner may be required to install a backflow prevention device at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.
- (k) In the event that the owners install plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow prevention device, such plumbing must have its own backflow prevention device installed.
- (l) The owners shall be responsible for the payment of all permit fees, penalties, annual or semiannual device testing, retesting in the case that the device fails to operate correctly, and second reinspections for noncompliance with Department and/or Department of Health requirements.

G. Determination of type of backflow protection device.

- (1) Categories; rating system; regulation.

- (a) An acceptable backflow prevention device must be installed in every service connection to a facility. Three categories shall be considered when determining the degree of hazard posed by a facility and making the subsequent determination of the type of protection device required. The City of Beacon recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices, "reduce pressure zone assembly," (RPZA) or "double-check valve assembly" (DCVA). The considerations are:
  - [1] Use, toxicity and availability of contaminants.
  - [2] Availability of a supplementary supply of water.
  - [3] Fire-fighting system evaluation
- (b) Based on these considerations the water supply operator and/or the City Engineer shall rate a facility as "hazardous," "aesthetically objectionable" or "nonhazardous."
  - [1] A hazardous facility must be contained through the use of an RPZA or properly designed air gap.
  - [2] An aesthetically objectionable facility must be contained through the use of a DCV, RPZA, or air gap.
  - [3] Nonhazardous facilities should be protected through an internal plumbing control program to ensure that plumbing cross-connections are adequately protected or eliminated; or through the use of a DCVA, RPZA or air gap.
- (2) The Water Superintendent and/or the City Engineer as designated by the City Council shall determine the type of device required for each property and facility. In making this determination, the water supply operator may utilize the Sample List of Facilities Requiring Backflow Prevention, prepared by the NYSDOH and, if necessary, shall consult with the DCDOH.
- (3) Cross-connection control by facility type
  - (a) Hazardous types of facilities which shall require installation of an approved reduce pressure zone assembly (RPZA) or air gap in the service connection to the public water distribution system include but are not limited to:
    - [1] Sewage and industrial wastewater treatment plants and pumping stations and sewer flushers.
    - [2] Paper manufacturing or processing, dye plants, petroleum processing, printing plant, chemical manufacturing or processing, industrial fluid systems, steam generation, rubber processing and tanneries.
    - [3] Canneries, breweries, food processing, milk processing, ice manufacturing, meat packers, poultry processing and rendering companies.

- [4] Hospitals, clinics, laboratories, veterinary hospitals, mortuaries and embalmers.
  - [5] Metal plating, photo processing, laundries, commercial car washes, commercial refrigeration systems and dry-cleaning establishments.
  - [6] Commercial greenhouses, spraying and irrigation systems using weedicides, herbicides and exterminators.
  - [7] Boiler systems, cooling towers or internal firefighter systems using conditioners, inhibitors and corrosion control chemicals.
  - [8] Residential units with lawn and irrigation systems with chemical injection.
  - [9] Residential units or facilities with service provided by both the village water distribution system and private well or water supply.
- (b) Aesthetically objectionable types of facilities which shall require installation of an approved double-check valve, RPZA or air gap in the service connection of the public water distribution system are those which include but are not limited to:
- [1] Customer fire-protection loops and fire-storage tanks with no chemical additives.
  - [2] High-temperature potable water.
  - [3] Utilization for food-grade dyes.
  - [4] Complex plumbing systems in commercial buildings, such as but not limited to beauty salons, churches, apartment buildings, gas stations, supermarkets, nursing homes, construction sites and carnivals.
  - [5] Residential units with lawn and irrigation systems.
- (c) It is not possible to list every circumstance and facility type that may be encountered by the Department while evaluating all users. The Department, while evaluating a facility, will rely on experience, assistance from local Health Department officials and the Cross Connection Control Program Manual.

#### H. Existing in-use backflow prevention devices

Any existing backflow prevention device shall be allowed by the Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow prevention device, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow prevention device must be upgraded to a reduced-pressure-principle device, or a reduced-pressure-principle device must be installed in the event that no backflow prevention device was present.

#### I. Periodic testing.

- (1) All testers of backflow prevention devices shall be approved by the NYSDOH pursuant to Section 1.13 of Part 5 of the NYS Sanitary Code, 10 NYCRR Section 5-1.31.
- (2) The testing of backflow prevention devices shall be performed on an annual basis by the owner of any system requiring the same, and the cost of such testing shall be borne by the owner of the system. The testing procedures shall conform to the requirements of the NYSDOH and the DCDOH. Test results shall be submitted to the Department within 30 days of the completion of such testing. Late submissions of annual test results shall be subject to an administrative processing fee in the amount of \$25.
- (3) Any backflow prevention device which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be retested at the owner's expense to ensure correct operation. High-hazard situations will not be allowed to continue unprotected if the backflow prevention device fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than 30 days after the test date will be established. The owner is responsible for spare parts, repair tools or a replacement device. Parallel installation of two devices is an effective means of the owner ensuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.
- (4) Backflow prevention devices will be tested more frequently than specified above in cases where there is a history of test failures and the water supply operator feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the owner.
- (5) Testing is not required when fixture isolation is achieved with the utilization of a nontestable backflow prevention device.

J. Residential dual check assembly.

1. Effective the date of the acceptance of this cross-connection control program for the City of Beacon, all new residential buildings, which includes one-family and two-family dwellings, will be required to install a residential dual check assembly immediately downstream of the water meter. Installation of this residential dual check assembly on the retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Department.
2. The owners must be aware that installation of a residential dual check assembly results in a potential closed plumbing system within the residence. As such, provisions may have to be made by the owners to provide for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

K. Strainers

The Department strongly recommends that all new retrofit installations of reduced-pressure-principle devices and double check valve backflow prevention devices include the installation of strainers located immediately upstream of the backflow prevention device. The installation of strainers will preclude the fouling of the backflow prevention devices due to both foreseen and unforeseen circumstances occurring to the water supply system, such as water main repairs, water

main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow prevention devices installed without the benefit of strainers.

**L. Penalties for offenses; corrective action.**

- (1) Any person violating any provision of this chapter shall be subject to a penalty as prescribed in §1-3.
- (2) Notwithstanding the penalties hereinabove provided, the City of Beacon may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

**Section 2. Ratification, Readoption and Confirmation**

Except as specifically modified by the amendments contained herein, Chapter 219 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 3. Numbering for Codification**

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this

Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this

Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 4. Severability**

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

**Section 5. Effective Date**

This local law shall take effect immediately upon filing with the Office of the Secretary of State.



**City of Beacon Workshop Agenda**  
**8/28/2017**

**Title:**

**Sale of Real Property**

**Subject:**

**Background:**

**ATTACHMENTS:**

Description	Type
Proposal for Property	Backup Material