



**TOWN OF LEWISBORO  
TOWN BOARD MEETING AGENDA  
TOWN HOUSE  
MONDAY, AUGUST 28, 2023  
7:30 P.M.**

**I. PUBLIC COMMENT 1**

**II. COMMUNICATIONS**

**Proclamation for Planning Board Member Jerome Kerner**

**III. NEW BUSINESS**

- a. Resolution: Approve use of CREST Grant for Electrification**
- b. Resolution: Approve UPSEU Memorandum of Understanding (MOU) for use of Outside Services by Building Department**
- c. Resolution: Authorizing Supervisor to Sign NY-Alert Use Agreement**

**IV. OLD BUSINESS**

- a. Discussion: Finalize Tree Ordinance and Set Public Hearing**

**V. PUBLIC COMMENT II for New Business Only**

**VI. APPROVAL OF CLAIMS**

**VII. POLLING OF THE BOARD**

**VIII. ANNOUNCEMENTS**

**Town Board Meeting - Monday, September 18, 2023, at 7:30 p.m., at the Town House, 11 Main Street, South Salem**

**IX. MOTION TO GO INTO EXECUTIVE SESSION**

**Town Board Meetings Accessibility: The Town of Lewisboro is committed to providing equal access to all its facilities, services, and activities to the fullest extent possible. The Town House, Cyrus Russell Community House, Onatru Farmhouse, and the Bouton Road Town Offices are accessible to persons with physical handicaps. If anyone who wishes to attend any meeting of the Town Board has special needs, please contact the Supervisor's**

**Office (763-3151) at least one week before any scheduled in-person meeting, and we will try to accommodate whenever possible.**

**Join Zoom Meeting**

**<https://us06web.zoom.us/j/88040564503>**

**Meeting ID: 880 4056 4503**

**Dial by your location**

**+1 929 205 6099 US (New York)**

**Meeting ID: 880 4056 4503**

**THE SENATE  
STATE OF NEW YORK**



**PETER B. HARCKHAM**  
SENATOR, 40TH DISTRICT

**CHAIR**

ENVIRONMENTAL CONSERVATION

**COMMITTEES**

ALCOHOLISM AND SUBSTANCE ABUSE

CODES

INSURANCE

LOCAL GOVERNMENT

TRANSPORTATION

VETERANS, HOMELAND SECURITY  
AND MILITARY AFFAIRS

**ALBANY OFFICE**

ROOM 812  
LEGISLATIVE OFFICE BUILDING  
ALBANY, NEW YORK 12247  
(518) 455-2340

**WESTCHESTER OFFICE**

1 PARK PLACE  
SUITE 302  
PEEKSKILL, NEW YORK 10566  
(914) 241-4600

**PUTNAM OFFICE**

40 GLENEIDA AVENUE  
3RD FLOOR  
CARMEL, NEW YORK 10512  
(845) 225-3025

Dear Local Leader:

I am proud to announce the availability of \$2.1M of Community Resiliency, Economic Sustainability, and Technology Program (CREST) grants for local governments. As chair of the Environmental Conservation Committee, I will be prioritizing municipal grant applications that support our transition to a fossil fuel-free, clean energy future. Each municipality in the 40th District is eligible for up to \$100,000.

Examples of eligible projects include:

- Electric vehicles
- EV charging stations
- Renewable energy generation
- Municipal building electrification (heat pumps, geothermal, etc)

The historic heat recorded earlier this month and the recent air quality emergencies due to Canadian wildfires are profound examples of the kinds of weather-related emergencies that can affect our communities due to climate change. Even in the absence of these disasters, air quality in our region regularly fails to meet US Environmental Protection Agency standards. Much of this can be attributed to the combustion of fossil fuels for transportation and for the heating of buildings. To protect the health and safety of our constituents, we must take all reasonable steps to minimize the burning of fossil fuels.

In addition to the environmental and public health benefits, participating in the energy transition will yield financial gains as well savings on fuel costs. Therefore, I encourage local governments to submit to my office requests for funding, up to \$100,000 per municipality, for municipal electrification and renewable energy projects.

Grant packets will be distributed by Sarah Perez next week. Her email is [Perezs@nysenate.gov](mailto:Perezs@nysenate.gov) and her telephone number is (518) 455 2343.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter B. Harckham".

Peter B. Harckham,  
New York State Senator, 40th Senate District

## **MEMORANDUM OF UNDERSTANDING**

**WHEREAS**, the position of Assistant Building Inspector (ABI) is in UPSEU's bargaining unit.

**WHEREAS**, in or about June of 2022, a backlog of ABI work developed in the Town's Building Inspection Department which necessitated the limited utilization of an outside concern (LaBella Engineering) to perform ABI work.

**WHEREAS**, at or about that same time, the incumbent of the ABI position accepted a promotion outside of the unit, which further increased the need to rely temporarily upon LaBella Engineering to perform historical ABI work

**WHEREAS**, UPSEU filed a subcontracting charge against the Town on April 5, 2023 (PERB Case No. U-38858), alleging a violation of the Act due to the performance of historical ABI work by LaBella Engineering.

**WHEREAS**, UPSEU maintains that the work in question is exclusive to its bargaining unit.

**WHEREAS**, the Town does not take issue with UPSEU's position regarding exclusivity.

**WHEREAS**, rather than move forward to a hearing, the parties mutually desire to settle this matter and hereby agree as follows:

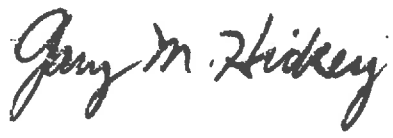
1. The parties jointly acknowledge that the ABI work at issue is exclusive to the UPSEU;
2. The Town agrees that the work reassigned and performed by LaBella Engineering, as described above, is without prejudice to UPSEU's exclusivity to the ABI work in question and that it will not be used in defense of a future charge/proceeding involving the same issue of exclusivity;
3. Notwithstanding the foregoing, in the event that the Town requires additional assistance with the processing of building department applications and permits based upon an increase in overall volume of applications and/or complexity of certain application(s), the Town shall retain the right, upon notice and consent UPSEU, to engage outside professional services to address such requirements;

4. Based upon the above understanding, UPSEU agrees to withdraw the instant charge.

Dated: \_\_\_\_\_

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Tony Goncalves  
Lewisboro Town Supervisor



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Gary M. Hickey  
UPSEU Executive VP, Regional Director

## **NY-ALERT USE AGREEMENT**

### **Between**

The Town of Lewisboro

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### **And**

## **THE NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES**

THIS AGREEMENT is entered into between the State of New York (hereinafter “the State” or “NYS”), acting by and through the New York State Office of Information Technologies Services (“ITS”), having its principal place of business at: Empire State Plaza, Swan Street Building, Core 4, 1st Floor, Albany, NY 12223 and The Town of Lewisboro (“Entity” or “Authorized Entity”) located at: 11 Main Street, PO BOX 500, South Salem NY, 10590, collectively referred to as the “Parties.”

### **I. Purpose**

The purpose of this Agreement is to set forth the conditions, terms and respective responsibilities of the Parties with respect to the utilization of the New York State Mass Alert Notification System (“NY-Alert”). NY-Alert provides an Authorized Entity the ability to send emergency and safety related messaging to targeted recipients.

Entities that partner with ITS for use of NY-Alert may develop specific policies and procedures that meet the identified needs of their Entity, so long as the procedures do not deviate from, dilute or contradict the terms and conditions contained within this Agreement.

### **II. Procedures for Obtaining Authorization to Access NY-Alert**

Attachment 1, PROCESS FOR NY-ALERT INTEGRATION and APPROVAL, outlines the procedures that an Entity must follow in order to get authorization to access NY-Alert.

### **III. Definitions:**

- a. Authorized Entity: An entity that has been granted approval to access and use NY-Alert by ITS.
- b. Notifier: A person who has been designated by an Authorized Entity to create Notifications within NY-Alert on behalf of that Authorized Entity.
- c. Notification: A message, press release or alert.
- d. Notification Group: A collection of Subscribers or enrollees to NY-Alert designated to receive Notifications disseminated by an Authorized Entity (*e.g.*, parents of a student enrolled in a school district).
- e. Private Notification: A Notification provided by an Authorized Entity to a targeted audience within their organization (*e.g.*, a Notification by a school or college campus alerting their students of a closing due to inclement weather).
- f. Private Organization: An Authorized Entity who has not been approved to provide Public Safety Alerting.
- g. Public Safety Alert: An alert issued by a Public Safety Organization before, during and after an emergency, critical incident or event (whether natural or technological) (*e.g.*, Notifications for evacuations, sheltering in place, Haz-Mat release, etc.).
- h. Public Safety Organization: A State and/or local government organization responsible for public safety (*e.g.*, Emergency Management Offices, Police Departments, Fire

Departments) and approved by the New York State Division of Homeland Security to send Public Safety Alerts.

- i. Subscriber: An individual who or entity that registers through the NY-Alert public portal to receive Notifications.

#### **IV. Obligations and Responsibilities:**

- NY-Alert shall not be used in any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the United States or other countries).
- Use of NY-Alert shall comply with all applicable security policies and procedures of ITS, including the ITS Policy on Acceptable Use of Information Technology (IT) Resources. ITS security policies and procedures can be found at:  
<https://www.its.ny.gov/eiso/policies/security>.
- NY-Alert shall only be used in the performance of Entity's official duties and for the purposes indicated in this Agreement.
- NY-Alert shall not be used for any political purpose or for financial or personal gain.
- NY-Alert shall not be used to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam" or any other similar solicitation.
- NY-Alert shall not be used to impersonate or attempt to impersonate another person or entity, including by utilizing another person's identification, password, account name or persona without authorization from that person.
- NY-Alert shall not be used in any manner that could disrupt, disable, overburden, damage, or impair the service, including the ability to send timely Notifications through the service, using various means including overloading, "flooding," or denial of service attacks.
- NY-Alert shall not be used for any unauthorized activities. Such use could result in a verbal or written warning, loss of access rights, and/or criminal or civil prosecution. This list of possible penalties is not exhaustive.

#### **The Authorized Entity shall be responsible for:**

- Designating a Point-of-Contact ("POC"): The Authorized Entity shall designate a lead POC and secondary alternate POC who will be approved to provide all authorizing signatures and permissions for the internal structuring and use of NY-Alert by that Authorized Entity (*see* Attachment 2);
- Establishing policies that provide a person with Notifier status while restricting his or her ability to independently determine the need for and/or the ability to create and transmit an Alert or Notification absent Notifier supervisory direction (*e.g.*, dispatcher, office support personnel);
- Being responsible for insuring that those individuals identified as having Notifier status understand and agree to the terms of this Agreement; and
- Being responsible for the use of NY-Alert by their designated Notifiers and hold the State harmless for any misuse of NY-Alert by those designees.

#### **The Authorized Entity POC shall be responsible for:**

- Identifying the persons who should be granted Notifier status, including their names, email addresses and telephone numbers, and submitting that list of requested designees to NY-Alert for credentials and password issuance;
- Approving the establishment of all Notification Groups within their organization;

- Maintaining accurate Notification Groups including, but not limited to, adding personnel and relevant contact information, deleting personnel, creating additional Notification Groups, assigning personnel to newly created Notification Groups, and importing/updating this information into the NY-Alert database; and
- Reapplying for authorization when a Notifier is replaced. Authorization is not provided *Ex Officio*.

**The Notifier shall be responsible for:**

- Receiving training in connection with his or her use of NY-Alert by the Authorized Entity's POC and/or ITS NY-Alert personnel (NY-Alert credentials and passwords will be issued after successful completion of the training);
- Applying remote access security as it relates to his or her use of NY-Alert;
- Not transferring or sharing his or her account or password information;
- The use of NY-Alert by anyone accessing NY-Alert through his or her credentials;
- The proper use of NY-Alert and the accuracy of the content of all Notifications transmitted; and
- Notifying ITS NY-Alert personnel immediately, if they become aware of any unauthorized use of his or her account or password.

**V. Operations**

1. Authorized Entities are encouraged to test their Notification Groups on a monthly basis. Testing should be limited to email and/or SMS text messaging Notification Channels (see Attachment 3). While there is no prohibition on using the Voice Notification channels (Mass Dialers and Reverse 911), use of these channels should be reserved for actual life/safety purposes.
2. Limited to County Authorized Entities - Reverse 911 Notification Channels are only available to Public Safety Organizations which are granted Public Safety Alerting permission by the New York State Division of Homeland Security and Emergency Services ("DHSES"). This is NOT an "opt-in" service. County Emergency Management Offices may receive periodic directory updates from the Local Exchange Companies (*i.e.*, telephone companies) for emergency contacting purposes. Counties participating in NY-Alert are encouraged to import this data into NY-Alert on an annual basis (minimally) to maintain an accurate profile of their resident's telephone numbers. NY-Alert will accept up to a maximum of four imports per calendar year from participating counties. Residents may "opt-out" by contacting NY-Alerts and requesting their telephone number be removed.
3. Organizations requiring Public Safety Alerting capability must submit Attachment 3, Request for NY-Alert Public Safety Alerting Authority, to DHSES for approval and authorization. Upon approval, DHSES will notify ITS NY-Alert to grant Public Safety Alerting permissions.
4. ITS personnel will NOT disseminate any Public Safety Alerts or Notifications.
5. Municipal Governance: NYS recognizes the County as the lead agency for public safety within its jurisdiction. As such, ITS will defer to the County POC for municipalities requesting NY-Alert capability. Counties may elect to create the municipality as an Authorized Entity within their structure or direct ITS to set-up the municipality as an independent Authorized Entity. In situations where the County does not participate in NY-



Alert, ITS will create the municipality as an independent Authorized Entity<sup>1</sup>.

**VI. Consideration:**

This is not a funds obligating Agreement. Neither Party is bound to take any action or fund any initiative. This Agreement does not authorize financial expenditures by ITS.

There is no charge to the Entity for the use of NY-Alert. The Entity is responsible for all costs related to providing their users with access to NY-Alert via the public Internet. These costs may include hardware, software, monthly Internet charges, completion of security awareness training and other related costs.

**VII. New York State Appendix A - Standard Terms for State Contracts:**

New York State Appendix A-Standard Clauses for All New York State Contracts ("Appendix A") is incorporated by reference ( <http://ogs.ny.gov/About/appendixa.asp> ) hereto and made part hereof. Notwithstanding the foregoing, the Parties expressly acknowledge that due to the legal nature of the Entity not all Appendix A terms may be applicable.

**VIII. Term:**

This Agreement shall commence on the date executed by the Entity and shall remain in effect until such time as this Agreement is terminated in accordance with the following provisions:

- a. Voluntary termination shall take effect upon ninety (90) days prior written notice to the other party.
- b. Termination for cause shall take effect immediately, at the discretion of ITS, if it is determined that the Entity has failed to abide by the terms of this Agreement.

Upon termination, **all** system access privileges will be immediately revoked.

**IX. Records Retention**

The Entity shall continue to own all of its information, data, and records. NY-Alert is not to be used as an archival service. ITS is not responsible for meeting the Entity's records retention responsibilities under the New York State Arts and Cultural Affairs Law or any other applicable statute. ITS will ensure all generated Notifications will be available online for a minimum of thirty (30) days. It is the responsibility of the Entity to determine whether a generated Notification is an agency record for purposes of compliance with the law and make the appropriate arrangements to preserve such record off of the NY-Alert system.

**X. Public Information**

Disclosure of items related to this Agreement shall be permitted consistent with the laws of the State of New York and specifically the Freedom of Information Law ("FOIL") which is contained in Section 87 of the Public Officers Law. The State shall take reasonable steps to protect from public disclosure any of the records relating to this Agreement that are otherwise exempt from disclosure under that statute.

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<sup>1</sup> The Sewage Pollution Right to Know (SPRTK) Law of 2013 requires operators of Municipal Waste Water Treatment Facilities (i.e. Publicly-Owned Treatment Works [POTWs] and Publicly-Owned Sewer Systems [POSSs]) to report certain instances of untreated or partially-treated sewage discharges to NYS DEC and health authorities. Public notifications are disseminated via NY-Alert. This process is governed by NYS Department of Environmental Conservation.

## **XI. Intellectual Property Rights**

All text, software (including source and object codes), visual, oral or other digital material, photographs, information, data, graphics and all other content of any description included in the services, including any communications, (collectively, the “Content”), and all copyrights, trademarks, service marks, patents, patent registration rights, trade secrets, know-how, database rights, and all other rights in or relating to the services and the Content (collectively, the “Intellectual Property”) are owned by NYS or by our licensors, and are protected by copyrights, trademarks, service marks, international treaties or other proprietary rights and laws of the United States of America (“U.S.”). The services and the Content are also protected as a collective work or compilation under U.S. copyright and other laws and treaties. No Content or Intellectual Property may be copied, modified, published, broadcast, or otherwise distributed without ITS’s prior written consent. ITS may withhold consent for any reason it deems appropriate.

The Entity may only use NY-Alert, the Content, and the Intellectual Property as expressly permitted by this Agreement and for no other purposes.

The Entity may not use any of ITS trademarks, trade names or service marks in any manner that creates the impression that such names and marks belong to, or are associated with, the Entity or are used with ITS consent, and the Entity acknowledges that it has no ownership rights in and to any of these names and marks. All present and future rights in, and title to, NY-Alert (including database rights and the right to exploit the services and any portions of the services over any present or future technology) are reserved to ITS for our exclusive use.

## **XII. Authorized Third Parties**

Some of the websites used by NYS are hosted externally, on behalf of NYS, by contractors using webpages that are designed to look and feel like they are part of the NY.GOV domain. NYS utilizes a third party’s capabilities to provide the NY-Alert service. ITS reserves the right to allow third parties to provide any necessary services to us and/or to the Entity to enable ITS to provide the services.

## **XIII. Release**

The Entity hereby irrevocably and unconditionally releases NYS (and its officers, employees, agents, successors and assigns) from any and all claims for damages (actual or consequential), costs or expenses of any kind or nature whatsoever that Entity may have against NYS (and its officers, employees, agents, successors and assigns) arising out of or in any way related to or in connection with the use of NY-Alert.

## **XIV. Disclaimers**

ITS is providing NY-Alert “as is” ITS does not provide any warranty whatsoever, whether express, implied, or statutory, including, but not limited to, any warranty of merchantability or fitness for a particular purpose or any warranty that NY-Alert will be error-free. In no respect shall ITS incur any liability for any damages, including direct, indirect, special, or consequential damages arising out of, resulting from, or any way connected to Entity’s use of NY-Alert.

## **XV. Indemnity**

The Entity agrees to indemnify, defend and hold NYS harmless from any and all claims or suits

(including, without limitation, reasonable legal fees and expenses) that arise out of Entity's breach of this Agreement, use of NY-Alert, or violation of any law or the rights of a third party.

**XVI. Nonperformance**

If for any reason, ITS or any contractors and/or subcontractors engaged in the provision of services to this Agreement fail to perform in their agreements with ITS which results in ITS' inability and/or degraded ability to deliver the NY-Alert, then ITS' liability to the Entity shall be limited solely to the return of any consideration paid.

**XVII. Cancellation of Previous Agreement**

This Agreement cancels and supersedes any previously signed agreement between the Entity and NYS regarding the use of NY-Alert.

**XVIII. Modification of Agreement**

This Agreement may only be modified by the written agreement of the Parties, duly signed by their authorized representatives.

**XIX. Transferability and Assignment**

This Agreement cannot be transferred or assigned by the Entity except with the written consent of the ITS.

**XX. Entire Agreement**

It is expressly understood and agreed that this Agreement embodies the entire agreement between the Parties regarding the Agreement's subject matter.

**XXI. Acknowledgement and Agreement**

The Entity understands that the terms of this Agreement are a condition of the initial and continued access and use of the NY-Alert service and agrees to all the terms and conditions in this Agreement.

ENTITY NAME: The Town of Lewisboro

AUTHORIZED SIGNATORY: \_\_\_\_\_

NAME (print): \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## ATTACHMENT 1

### **PROCESS FOR NY-ALERT INTEGRATION and APPROVAL**

- Parties will discuss the NY-Alert functionality and potential use.
- ITS NY-Alert will provide to the Entity the Agreement for Use of NY-Alert.
- Entity's authorized signatory executes the Agreement, before a notary public, and returns the executed Agreement to ITS NY-Alerts Unit at [nyalertsupport@its.ny.gov](mailto:nyalertsupport@its.ny.gov) . In the email subject line please include the name of your entity (e.g., NY-Alert Agreement – NYS DOT, NY-Alert Agreement – Niagara County, etc.).
- Entity completes the POC Assignment form (Attachment 2), executed by the Entity's authorized signatory, and returns the completed form to ITS NY-Alert at [nyalertsupport@its.ny.gov](mailto:nyalertsupport@its.ny.gov).
- If applicable, Entity Executive completes the Request for Public Safety Alerting Authority (Attachment 3) and submits the completed form to DHSES Office of Emergency Management ("OEM") for approval.
- POC provides ITS NY-Alert with a list of requested Notifiers which includes his or her:
  - Name
  - Position/Rank/Title
  - Office Address
  - Mobile #
  - Email Address
- ITS NY-Alert provides Alert/Notification Training to the initial designated Notifiers.
- An Authorized Entity's POC develops Notification Group(s) (utilizing .csv format) and provides the recipient list(s) to ITS NY-Alert (including the name of the group(s) and all needed data) or ITS NY-Alert will provide the Authorized Entity with the ability to import their Notification Group directly into NY-Alert.
- ITS NY-Alert generates an initial Notification Group(s) and notifies POC when completed.
- ITS NY-Alert provides access credentials to Notifiers.

## ATTACHMENT 2

### NY-ALERT ENTITY POINT-OF-CONTACT ASSIGNMENT

Please complete the following form and return it to ITS NY-Alert at [nyalertsupport@its.ny.gov](mailto:nyalertsupport@its.ny.gov).  
Upon receipt, ITS NY-Alert will contact the identified POC to complete the process of granting access to NY-Alert to your Entity.

ENTITY: Town of Lewisboro

1) PRIMARY POINT OF CONTACT: Dan Murtha

POSITION/RANK/TITLE: Co-chair OEM

TELEPHONE: 914 646 9787

MOBILE #: \_\_\_\_\_

OFFICE ADDRESS: PO BOX 500 11 Main Street  
South Salem NY 10590

EMAIL ADDRESS: DPMURTHA@GMAIL.COM

2) ALTERNATE POINT OF CONTACT: Adam Ochs

POSITION/RANK/TITLE: Co-chair OEM

TELEPHONE: 203 856 6121

MOBILE #: \_\_\_\_\_

OFFICE ADDRESS: PO BOX 500 11 Main Street  
South Salem NY 10590

EMAIL ADDRESS: VFDCommish@Aol.com

#### ENTITY's AUTHORIZED SIGNATORY

SIGNATURE: \_\_\_\_\_

NAME (print): \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

### ATTACHMENT 3

#### **REQUEST FOR NY-ALERT** **PUBLIC SAFETY ALERTING AUTHORITY**

#### **NOTE: ONLY FOR ENTITIES REQUIRING PUBLIC SAFETY ALERTING** **AUTHORITY**

Please complete the following form and return the form to NYS DHSES OEM at [dh ses.sm.nys.watchcenter@dh ses.ny.gov](mailto:dh ses.sm.nys.watchcenter@dh ses.ny.gov). Upon approval, DHSES will forward a copy of the approved form to ITS NY-Alert at [nyalertsupport@its.ny.gov](mailto:nyalertsupport@its.ny.gov).

REQUESTING ENTITY: Town of Lewisboro

JURISDICTION REQUESTED: Town of Lewisboro

#### NOTIFICATION CHANNELS REQUESTED:

- EMAIL X
- SMS TEXT X
- VOICE: MASS DIALERS X REVERSE 911 X
- FACSIMILE X
- TWITTER X
- FACEBOOK X
- RSS FEEDS\* X
- WEBSITE POSTING\* X
- SMARTPHONE APP (iOS and ANDROID) \* X

(\* These channels are automatically enabled)

Note: IPAWS/CMAS/WEA channel is available but requires FEMA pre-approval, credentials and specific training before activation.

#### **ENTITY EXECUTIVE**

NAME: Tony Goncalves  
POSITION/RANK/TITLE: Supervisor, Town of Lewisboro  
TELEPHONE: 914 763 5151  
MOBILE #: \_\_\_\_\_  
OFFICE ADDRESS: 11 Main Street  
PO Box 500  
South Salem, NY 10590  
EMAIL ADDRESS: Supervisor@lewisborogov.com  
SIGNATURE: \_\_\_\_\_  
DATE: 3/3/2023

#### **APPROVED BY NYS DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, OFFICE OF EMERGENCY MANAGEMENT:**

NAME: \_\_\_\_\_  
POSITION/RANK TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_

The following are four recommended updates to the Tree Preservation Ordinance. The updated language is in red. The town attorney will of course need to review any changes that are to be enacted. The motivation for each of the sections is as follows:

203-3 A: This merely makes the Lewisboro ordinance consistence with Westchester County law. By updating the wording, the public is better informed of what Westchester requires. It is the feeling of the CAC and many others that many of our tree cutters are not licensed. The wording also shows a way for anyone to check their tree cutter.

203-4 Exceptions. The language for construction is not clear on clear cutting. The town has already had an instance of a property owner hiring a logging company to clear cut the property prior to construction. The updated language would prevent that and make the property owner identify only those trees necessary for construction, similar to what the wetland law requires. The ensuing building permit would then list the trees to be removed.

203-4 B Section 9. The current wording is a clear mistake and exempts property in the Special Overlay Character District (SOCD) from the law. The intention of the SOCD ordinance is to have a tighter review and not to have a complete exemption. The chair of ACARC, Rose Bonanno and I have agreed upon new language both in the Tree Ordinance and in the SOCD section.

203-8. Is a suggestion to require replacement of trees removed in violation of the ordinance. Some towns have this others do not. The CAC feels that requiring replacement is more in line with the intent of a tree ordinance. As noted, replacement could be an alternative to fines or reduce them.

203-3  
A.

The Town Board will designate an approving authority to administer and enforce this chapter. The approving authority may be any individual duly appointed by resolution of the Town Board, including a licensed/certified arborist and/or the Town Building Inspector. Any approving authority shall seek the advice and recommendation of the Wetlands Inspector or any licensed/certified arborist engaged by the Town Board (as may be applicable) for purposes of reviewing any application seeking issuance of a permit pursuant to the chapter.

A property owner who has a valid tree removal permit, is removing a tree due to the allowed exceptions or is removing one or more of the allowed three trees per year, is required by Westchester County to employ a tree removal company licensed by Westchester County. A property owner can check if a company is licensed by going to [westchester.gov](http://westchester.gov). To verify if a contractor is licensed by Westchester County, the name can be inserted in the search box on the Home Improvement Contractors page. This page is under Consumer Protections which is under Departments. Also:

### **Steps to check for licensed tree removal**

**Go to:**

**<https://consumer.westchestergov.com/trades/find-a-licensed-contractor>**

**Type Tree Removal in the Look For: search box**

203-4

B. Exceptions

(3)

Tree removal in connection with the construction, reconstruction, enlargement, moving or structural alteration of a building or other structure, including construction and installation of site improvements related thereto, for which an application for a building permit shall have been approved by the Building Inspector.

The application should include a listing of trees to be removed and should demonstrate that their removal is essential to the construction. Only trees that can be demonstrated to be essential to the construction should be removed



and the building permit should list the trees, similar to what is done for wetlands. A construction permit is not an authorization to clear cut property.

#### Section 203-4

Section B, #9 remove “Any tree removal in a Special Character Overlay District as defined in § **220-31**.”

#### Add section E

Any tree removal in a Special Character Overlay District as defined in § **220-31** in addition to meeting all the requirements of the Tree Preservation Ordinance, prior to the initiation of any action or the granting of any approval, a determination must be made by the Architecture and Community Appearance Review Council (ACARC).

In Section 220-31(B) SC Special Character Overlay District, change #9 to read:

“Tree removal in a Special Character Overlay District must conform to the Tree Removal Ordinance. The building department will be responsible for permits and enforcements.

#### **Update to the Special Character Overlay District § 220-31** **B. (9) add:**

Removal or clearing of any live tree with a trunk diameter of 10 inches or more at a height of four feet. A review is not required before ACARC in the following circumstance:

Tree removal from any residential property within the Town of Lewisboro which involves, or concerns, a tree (or trees) located within sufficient proximity of a dwelling (up to a maximum of 100 feet) that it would reach the dwelling if it were to fall due to natural causes.

§ 203-8. Penalties for offenses. A. The owner of record of any property on which trees subject to this chapter are removed without the granting of a tree removal permit, or are removed in

violation of conditions attached to a tree removal permit, or any person removing or in the process of removing such trees, shall be guilty of a violation of this chapter, which shall be punishable by a fine of no less than \$250.00 or in excess of \$500.00 Each tree removed without a tree removal permit or in violation of the conditions attached to a tree removal permit shall constitute a separate offense.

#### Tree and Site Restoration

- A. Violators of the tree ordinance shall be responsible for restoring unlawfully damaged areas. The restoration, to the greatest extent practical, should re-create the site condition that would have existed in the absence of the violation.**
  - a. The restoration plan shall depict repairs of any environmental and property damage and the restoration of the site.**
  - b. Restoration plans on private property must be submitted to the building inspector for consideration and possible approval.**
- B. Restoration plan standards. The restoration plans shall be in accordance with the following standards:**
  - a. the number of trees required to be planted in their size shall be in accordance with the schedule in section C.**
  - b. The restoration plan shall include a maintenance plan and an agreement of security to ensure survival and maintenance of restoration trees for a minimum of three years.**
- C. The replacement of trees shall occur as prescribed in the following table.**

#### Tree Replacement Schedule

DBH of Existing Tree Removed	Number of Replacement Trees
Less than 6 inches	1
Between 6 and 12 inches	3
Between 12 and 18 inches	4
Between 18 and 24 inches	5
Between 24 and 30 inches	6
Between 30 and 36 inches	10
36 inches or greater	The equivalent of 3 inch caliper trees or greater needed to equal the DBH of the cut or removed tree

Proper tree replacement may reduce the fine imposed at the discretion of the convening authority.