



**TOWN OF LEWISBORO
TOWN BOARD MEETING
AGENDA
JOHN JAY HIGH SCHOOL CAFETERIA
MONDAY, MAY 21, 2018
7:30 P.M.**

PUBLIC HEARING Regarding Cell Tower Zoning Amendment

PUBLIC HEARING Regarding Cross River Cell Tower Lease to Homeland Towers

**PUBLIC HEARING Regarding Erecting Cross River Cell Tower and Meeting Monroe
Balancing Test**

CONSENT AGENDA

Approval of Minutes of May 7, 2018

NEW BUSINESS

- 1. Presentation on Toxic Emissions from Natural Gas – Jennifer Lahey and Ellen Weininger**
- 2. Discussion of SALT/Charitable Trust**
- 3. Discussion of Highway and Police Departments 2018 Budget Status to Date**
- 4. Resolution Approving Proclamation for Greg Monteleone**

OLD BUSINESS

- 1. Capital Plans for Parks & Recreation Department**
- 2. Discussion Regarding Reusable Bag Initiative and Setting a Public Hearing**

APPROVAL OF CLAIMS

POLLING OF THE BOARD

ANNOUNCEMENTS

- **Town Board Meeting Monday, June 11, 2018 at 7:30 p.m. at the Town House, 11 Main Street, South Salem**

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 meeting, and we will try to accommodate whenever possible.

H. Alterations, amendments and waiver of application requirements.

(1) Alterations. Alterations to an approved communication facility or communication tower shall be made to the Building Department.

- (a) If the Building Department determines that the proposed alteration constitutes an eligible facilities request as defined in 47 U.S.C. § 1455, it shall act upon the application.
- (b) If the Building Department determines that the alteration does not constitute an eligible facilities request as defined in 47 U.S.C. § 1455, it shall refer the application to the Planning Board for review and action. In acting upon such an application, the Planning Board shall apply the standards set forth in this § 220-41.1, unless waived.
- (c) Existing, and approved, communication facility ground equipment may be upgraded, replaced or added to, provided same can be accommodated within an approved fenced-in facility compound, building or structure. Such a facility alteration shall be exempt from the requirements of special permit approval, provided it does not include the construction of any new accessory buildings, structures greater than eight feet in height, fencing, or other site improvements involving grading, vegetation removal or new land disturbances.
- (d) No alteration to an approved communication facility or communication tower shall be permitted or approved where such alteration would result in displacement of or the inability for collocation by an additional service provider.

(2) Amendments. Applications to amend a special permit for an approved communication facility or communication tower to allow collocation of equipment for an additional service provider shall be made to the Building Department.

- (a) If the Building Department determines that the proposed amendment involves an eligible facilities request as defined in 47 U.S.C. § 1455, it shall act upon the application.
- (b) If the Building Department determines that the proposed amendment does not constitute an eligible facilities request as defined in 47 U.S.C. § 1455, it shall refer the application to the Planning Board for review and action. In acting upon such an application, the Planning Board shall apply the standards set forth in this § 220-41.1, unless waived.

(3) Waiver. If an application is subject to Planning Board approval, the Planning Board may waive, upon the request of the applicant and subject to appropriate circumstances, any application requirements under § 220-41.1 which, in its judgment of the specific circumstances of a particular application or site, are not requisite in the interest of the public health,

safety and general welfare.

TOWN OF LEWISBORO

County of Westchester, State of New York

RESOLUTION _____

**AUTHORIZATION TO LEASE PORTION OF TOWN PROPERTY TO
HOMELAND TOWERS, LLC**

INTRODUCED BY: _____

SECONDED BY: _____

DATE OF CONSIDERATION/ADOPTION: April 23, 2018

WHEREAS, the Town of Lewisboro owns a parcel of real property located at 779 Route 35, Town of Lewisboro, County of Westchester, State of New York and shown on the Tax Map of the Town of Lewisboro as Sheet 0018, Block 10532, Lot 001 (hereinafter referred to as the "subject premises"), and

WHEREAS, the subject premises currently has two buildings located thereon, namely the Cyrus Russell Community House and the Lewisboro Volunteer Ambulance Corps building, and

WHEREAS, the Town Board of the Town of Lewisboro desires to lease a portion of the subject premises to Homeland Towers, LLC for the purpose of constructing, establishing, and maintaining a radio transmission tower facility for its use and that of its subtenants, licensees and customers, which facility includes a tower and associated facilities, including radio transmitting and receiving antennas, communications equipment, and related cables, wires, conduits, air conditioning equipment and other appurtenances, as shown on a certain site plan for said purpose as submitted to the Town Board, which site plan is subject to final approval, and

WHEREAS, the Town Board of the Town of Lewisboro finds that it is in the best interest of the Town to lease a portion of the subject premises, as set forth in a certain Lease, a copy of which is annexed hereto, and as shown on the aforementioned site plan, (hereinafter referred to as the "Lease Area") to Homeland Towers, LLC, a New York limited liability company having a place of business at 9 Harmony Road, 2nd Floor, Danbury, Connecticut 06810, and

WHEREAS, in accordance with Article 8 of the Environmental Conservation Law (the State Environmental Quality Review Act) and 6 NYCRR Part 617 of the implementing regulations, the proposed action has been determined to be an UNLISTED Action; and

WHEREAS, the Town Board of the Town of Lewisboro has reviewed the Environmental Assessment Form submitted for the project, and

WHEREAS, the Town Board of the Town of Lewisboro hereby issues a negative declaration of significance pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, in that it has determined that the proposed action, namely entering into the aforementioned Lease, will not have a significant environmental impact and that a Draft Environmental Impact Statement will not be prepared, and

WHEREAS, this review under the State Environmental Quality Review Act is limited to the lease of a portion of the subject premises as set forth herein, and there will be a separate review in accordance with the State Environmental Quality Review Act in relation to the application of the Monroe balancing test and the approval of the site plan for the proposed use of the subject premises;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Lewisboro hereby authorizes and approves the lease of the subject premises to Homeland Towers, LLC, upon the terms and conditions contained in the Lease annexed hereto as Exhibit "A" and incorporated herein by reference thereto, subject to further negotiation between the parties and approval of any changes by the Town Board of the Town of Lewisboro, and

BE IT FURTHER RESOLVED, that pursuant to Section 64(2) of the Town Law of the State of New York, this Resolution is adopted by the Town Board of the Town of Lewisboro subject to a permissive referendum, and

BE IT FURTHER RESOLVED, that the Lewisboro Town Clerk is hereby authorized and directed to post and publish notice of this Resolution in accordance with Section 90 of the Town Law of the State of New York, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Lewisboro hereby authorizes the Supervisor to execute any and all documents necessary to give effect to this resolution, including authority to sign the Lease with regard to same.

UPON ROLL CALL VOTE:

Supervisor Parsons	___	Councilman Pappalardo	___
Councilman Welsh	___	Councilwoman Crimmins	___
Councilman Goncalves	___		

VOTE: RESOLUTION CARRIED BY A VOTE OF ____ TO ____.

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

I, JANET L. DONOHUE, Town Clerk of the Town of Lewisboro, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Town Board of the Town of Lewisboro at a meeting of said Board on April 23, 2018.

DATED: April 23, 2018

JANET L. DONOHUE, TOWN CLERK

Monroe balancing of public interests analytic approach:

1. Nature and scope of the instrumentality seeking immunity.
2. The kind of function or land use involved.
3. The extent of the public interest to be served thereby.
4. The effect local land use regulation would have upon the enterprise concerned.
5. The impact upon legitimate local interests.
6. The applicant's legislative grant of authority.
7. Alternative locations for the facility in less restrictive zoning areas.
8. Alternative methods of providing the needed improvement.
9. An opportunity to be heard.
10. Intergovernmental participation in the project development process.

One factor in the calculus could be more influential than another or may be so significant as to completely overshadow all others, but no element should be thought of as ritualistically required or controlling.

**RESOLUTION REGARDING THE CONTENT OF AIR EMISSIONS REGULATIONS TO
BE DEVELOPED BY THE NYS DEPARTMENT OF ENVIRONMENTAL
CONSERVATION AFFECTING NATURAL GAS INFRASTRUCTURE FACILITIES**

Whereas, the _____ (Village Trustees/Town Board/City Council/County Legislature) has a principal responsibility to protect the health and safety of its residents, businesses and institutions; and

Whereas, the people and environment of New York have been increasingly subjected to a build-out of natural gas infrastructure, including but not limited to pipelines and distribution networks, compressor stations, power plants, combustion heating systems, metering and regulation stations, and pigging stations; and

Whereas, peer-reviewed scientific studies ^{1,2} link exposure between air pollutants emitted from natural gas infrastructure facilities and neurological, cardiovascular and respiratory disease, cancer, birth defects, and other adverse health impacts. Acute health impacts from these toxic exposures can cause burning eyes, headaches, breathing difficulty and nausea for nearby populations and can exacerbate health problems. Chronic health impacts can include certain types of cancer as well as damage to lungs, liver, kidneys, reproductive, nervous and cardiovascular systems; and

Whereas, the American Medical Association and the Medical Society of the State of New York acknowledge the hazards of natural gas infrastructure and associated adverse health impacts and passed resolutions in 2015 calling for Health Impact Assessments (HIAs); and

Whereas, the National Ambient Air Quality Standards (NAAQS) are based on average population risks across a large area over a long period of time but do not adequately address human toxicity for residents living in close proximity to natural gas infrastructure or where they are subject to episodic high exposures during events such as blowdowns; and

Whereas, current protocols used for assessing compliance with ambient air quality standards do not adequately determine intensity, frequency or durations of actual human exposures to pollutants and mixtures of pollutants emitted from natural gas infrastructure, noting that periodic 24-hour average measures can underestimate actual exposures by an order of magnitude; and

Whereas, gas infrastructure facilities can emit into the air annually hundreds of tons of pollutants including toxic chemicals and criteria pollutants, some of which are known carcinogens like benzene and formaldehyde, and can also be sources of radioactive contamination ³; and

Whereas, people who live or work in close proximity to natural gas infrastructure facilities such as compressor stations are most at risk—particularly developing fetuses, children, the elderly, and those with cardiovascular, lung or respiratory problems and other vulnerable subpopulations, although under certain weather and terrain conditions, these pollutants can have a wider impact; and

Whereas, developing fetuses and children are uniquely vulnerable to exposures as they receive proportionally greater doses of pollutants than adults and have immature organs and detoxification systems ⁴; and

Whereas, methane is an extremely potent greenhouse gas with a global warming potential that is 34 times that of carbon dioxide over a 100-year timeframe and 86 times that of carbon dioxide over a 20-year timeframe; and

Whereas, methane is the primary ingredient of natural gas and leaks at every system stage, including extraction, processing, transmission, distribution, and end-use consumption; and

Whereas, the NYS Department of Environmental Conservation (DEC) regulations do not currently require Best Available Control Technology (BACT) or Lowest Achievable Emissions Rate (LAER) technology for facilities that are not designated under federal Title V requirements or are not located within non-attainment areas, although such requirements could substantially reduce hazardous air emissions; and

Whereas, the DEC does not require the use of emission control technologies for all gas

infrastructure facilities that would provide a floor of protection and could significantly reduce emissions, even when such technology has become standard practice within the industry or is readily available; and

Whereas, the DEC does not require continuous air monitoring of pollutants or methane in real time for gas infrastructure facilities, even though the technology to do so is now readily available, nor does the DEC require that such data be made available to public; and

Whereas, the DEC determines compliance with regulatory requirements and permit conditions through self-reporting by the industry without independent verification; and

Whereas, the DEC does not require rigorous inspection of gas infrastructure facilities to detect and eliminate natural gas leakage at gas infrastructure facilities; and

Whereas, the DEC lacks requirements for advanced notification of all planned blowdowns or other chemical releases, and for notification immediately following all unplanned blowdowns or other chemical releases in order for residents, public officials and first responders to take prompt emergency action; and

Whereas, the DEC exempts many emission sources that exist at gas infrastructure sites from regulation requirements and lacks adequate regulatory requirements for non-combustion emission sources; and

Whereas, the DEC does not require a sufficiently protective set of best management practices for gas infrastructure facilities to ensure protection of public health, safety, and the environment; and

Whereas, the DEC does not require the timely replacement or retrofit of technology and the update of site practices for existing gas infrastructure facilities to ensure appropriate consistency with requirements for new projects and adherence to current best management practices; and

Whereas, the U.S. Environmental Protection Agency hosts a voluntary Natural Gas Star program for partner companies to implement technologies and practices for the reduction of methane emissions and document results; and

Whereas, the DEC's State Environmental Quality Review (SEQR) process for gas infrastructure projects does not adequately address greenhouse gases and climate impacts; and

Whereas, the DEC has announced that it intends to rewrite or revise oil and gas regulations, which can be more stringent than federal requirements;

Therefore, be it resolved that the _____ (Village Trustees/Town Board/City Council/County Legislature), in the interest of protecting its residents, businesses and institutions, strongly urges the NYS Department of Environmental Conservation (DEC) to adopt the following regulatory requirements:

1. Installation and use of Lowest Achievable Emissions Rate (LAER) technology at all new and existing gas infrastructure facilities that emit pollutants into the environment, including those not designated under federal Title V requirements or not located within non-attainment areas;
2. Inclusion of non-combustion emission sources and emission sources currently considered "exempt" within the DEC regulatory framework; and
3. Installation and use of specific emission control technology, identified through the federal National Gas Star Program and elsewhere, including but not limited to:
 - Dry seals on all centrifugal compressors
 - Automatic air to fuel ratio (AFR) controls
 - Oxidation catalysts and selective catalytic reduction (SCR) on exhaust stacks
 - Vapor recovery technology for reciprocating compressors, storage tanks, and other sources of fugitive or vented emissions
 - Static seals on reciprocating compressor rods
 - Dry low-NOx burners (DLNB)
 - Low emission combustion (LEC)
 - SCONOx or equivalent technology
 - Zero-emission dehydrators and similar closed-system technology to avoid venting of gas
 - Electric or compressed air starters
 - Electric or compressed air actuators instead of gas-operated pneumatic actuators

- Post-combustion particulate matter controls such as electrostatic precipitators, baghouses, and scrubbers
- Interior and exterior corrosion protection, such as plastic enamel sprays
- Electric motor compressors where applicable; and

4. Implementation of practices, identified through the National Gas Star program and elsewhere, to reduce natural gas leakage and blowdowns, including but not limited to maintaining compressors at pipeline pressure, redirecting blowdown gas to lower-pressure lines, cap testing, use of inert gases at pigging stations, and more aggressive maintenance of packing rings and compressor rods than required by existing regulations; and

5. Installation and use of air monitoring equipment at the stack, fence line, and within nearby communities to provide continuous monitoring of pollutants including toxic chemicals, criteria pollutants, ultra-fine particulate matter, individual VOCs, as well as methane in real time for all gas infrastructure facilities, with such data made readily available to the public, such as by online access; and

6. Onsite verification of compliance with regulatory requirements and permit conditions by independent registered inspectors through scheduled and random visits; and

7. Rigorous quarterly inspection by independent registered personnel with regular reports submitted to the DEC and made available to the public to detect and ensure timely elimination of natural gas leaks at gas infrastructure facilities using the comprehensive detection methods such as aerial and ground-level laser methane assessment, organic vapor analyzers (OVAs), toxic vapor analyzers (TVAs), sorbent tubes, SUMMA canisters, infrared cameras, as well as real-time monitoring with Fourier Transform Infrared (FTIR) spectroscopy and other remote sensing along pipelines; and

8. 48-hour or greater advanced notification to any Village Trustees/Town Board/City Council/County Legislature requesting it of all planned blowdowns, regardless of size, and other chemical releases; notification within 30 minutes of all unplanned blowdowns, regardless of size, and other chemical releases at all gas infrastructure facilities; and suspension of planned blowdowns or other chemical releases when weather conditions would increase exposure to air pollutants; and

9. Timely replacement or retrofit of technology and update of site practices for existing gas infrastructure facilities to ensure compliance with current regulatory requirements and best management practices; and

10. Chain of custody records and tracking for all industrial waste removed from gas infrastructure facilities, and

11. Strict enforcement of all best management practices and protocols for gas infrastructure facilities to ensure protection of public health, safety, and the environment; and

Be it further resolved, that the DEC, in cooperation with the NYS Department of Health (DOH), should promulgate more stringent performance requirements, including but not limited to the regulated levels of criteria pollutants, to address deficiencies in NAAQS which fail to consider human toxicity in populations proximate to gas infrastructure facilities, and any other deficiencies affecting public health, safety, or environmental protection; and

Be it further resolved, that the DOH in cooperation with the DEC should require and oversee a comprehensive, independent Health Impact Assessment (HIA) as outlined by the Centers for Disease Control and the National Academy of Sciences, incorporating the latest peer reviewed science, to be conducted by an independent public health entity and include cumulative short and long-term, direct and indirect impacts from all natural gas infrastructure components, emissions from operations including blowdowns, leaks, and spills, and a thorough analysis of the chemical emissions and radioactive contaminants, as well as their concentrations, persistence, and dispersion; and that a health registry should be established and maintained with all data available to the public; and

Be it further resolved, that the DEC should develop State Environmental Quality Review (SEQR) guidance to ensure that state agencies adequately address all cumulative impacts including but not limited to greenhouse gases and climate change during environmental reviews for gas infrastructure projects; and

Be it further resolved, that the _____ (Village Trustees/Town Board/City Council/County Legislature) Clerk shall forward this Resolution to the Governor of New York State, Commissioner of the NYS Department of Environmental Conservation, Commissioner of the NYS Department of Health, and the local State Assembly Member and State Senator.

¹PSR/CHPNY Compendium 5th Edition (March 2018): http://concernedhealthny.org/wp-content/uploads/2018/03/Fracking_Science_Compendium_5FINAL.pdf

² PSE for Healthy Energy Repository for Oil and Gas Energy Research:
<https://www.psehealthyenergy.org/our-work/shale-gas-research-library/>

³ Environmental Health Project Report, October 2017: Health Effects Associated with Stack Chemical Emissions from NYS Compressor Stations: 2008-2014:
<http://www.environmentalhealthproject-ny.org/>

⁴ Reducing the staggering costs of environmental disease in children, estimated at \$76.6 billion in 2008, Trasande, L, et al, Health Affairs, May 2011:
<https://www.ncbi.nlm.nih.gov/pubmed/21543421>

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**Department
of State**



**Department of
Taxation and Finance**

Charitable Contributions to Local Governments and School Districts Guidance

May 16, 2018

Executive Summary

The FY 2019 State Budget authorizes local governments and school districts to establish charitable gift reserve funds and to offer real property tax credits to incentivize contributions to these new local charitable funds. Under the law, which took effect on April 12, 2018, such funds may receive unrestricted charitable contributions for the purposes of addressing education and other charitable purposes. This is an optional program available to counties, cities, towns, villages, and school districts. Key aspects of this program are listed below.

- Local governments and school districts may establish a fund to accept voluntary unrestricted charitable contributions.
- Donations received in these funds are to be used for charitable purposes. For school districts, these must be used by the district for public educational purposes.
- Local governments and school districts are also authorized, by local law for local governments and by resolution for school districts, to establish a property tax credit for those who donate to these charitable funds.
- The maximum value of the property tax credit is 95 percent of the value of the contribution. A local government or school district may choose to further limit the amount or percentage of such credit to be allowed in any given fiscal year.
- To be eligible for the property tax credit, the donation must be received in the 12-month period prior to the last day prescribed by law that taxes may be paid without interest or penalties.
- The Department of Taxation and Finance has developed forms to be used by local governments and school districts to acknowledge receipt of the donation as well as for the property tax payer to claim the credit.

It is important to note that this program is different from a similar program enacted with the FY 2019 State Budget allowing charitable donations to the State. These donations to the State and any related state income tax credit associated with them are separate and distinct from the optional local government/school district charitable contribution fund and property tax credit program outlined in this guidance. Further information on the State program will be forthcoming.

This guidance is designed to outline key aspects of the statute. It does not represent legal or tax advice. It is recommended that taxpayers consult a qualified tax advisor regarding their personal situation.

Establishment, Administration, and Uses of Charitable Funds

This section of the guidance outlines:

- how school districts and local governments can establish charitable funds;
- how school districts and local governments are to administer these funds, including acknowledging receipt of donations; and
- how the contributions received in these funds can be used.

Establishment of Charitable Fund – School Districts

School districts outside of New York City are authorized to establish, by resolution of their school board, a charitable fund to receive unrestricted charitable monetary donations for use by the district for public educational purposes. This authority is granted in subdivision 44 of section 1604 and subdivision 12-b of section 1709 of the Education Law.

These donations must be “unrestricted” – meaning that the donor may not place any special restriction upon the use of donated funds. School districts may only use these funds for the general purposes enumerated in the statute – “public educational purposes.”

This fund is a public governmental fund, and the monies in this fund are to be deposited and secured like other school district funds, pursuant to section 10 of the General Municipal Law. These funds may be invested like other funds established by the school district, pursuant to section 11 of the General Municipal Law, with any interest or gains from the investments accruing to the charitable fund. The school district is to maintain an accounting of all deposits, interest or capital gain, transfers and expenditures.

The New York City School District is also authorized, pursuant to subdivision 54 of section 2590-h of the Education Law, to establish a charitable fund to receive unrestricted charitable monetary donations for use by the district for public educational purposes. Although the framework on how the fund will operate is generally consistent with other school districts (e.g., depositing and investing consistent with General Municipal Law), given the different governance structure in New York City, the Chancellor will determine whether to establish the fund.

Charitable Fund Uses – School Districts

School districts are to use donations received by the fund for “public educational purposes.” At the school board’s (or Chancellor’s for the New York City School District) discretion, funds shall be transferred from the charitable fund to the general fund for spending consistent with the charitable purposes of the fund. The amount of taxes to be

levied by the school district for any school year shall be determined without regard to the transfer.

The creation of these charitable contribution funds and the use of resources from these funds will not impact the calculation of the property tax cap.

Establishment of Charitable Fund – Counties, Cities, Towns, and Villages

The governing boards of counties, cities (including New York City), towns, and villages are authorized to establish a charitable gifts reserve fund to receive unrestricted charitable monetary contributions. This authority is granted in section 6-t (counties and New York City) and section 6-u (all other cities, towns, and villages) in the General Municipal Law.

These donations must be “unrestricted” – meaning that the donor may not place any special restriction upon the use of donated funds. Local governments are to use these resources on charitable purposes that they deem appropriate.

This fund is a public governmental fund, and the monies in this fund are to be deposited and secured like other local government funds, pursuant to section 10 of the General Municipal Law. These funds may be invested like other funds established by the local government, pursuant to section 11 of the General Municipal Law, with any interest or gains from the investments accruing to the charitable fund.

The governing board shall establish a procedure for contributions to the charitable gifts reserve fund, which shall include the provision of a written acknowledgement of the gift to the contributor. The Department of Taxation and Finance has developed this written acknowledgement form, as discussed below.

Charitable Fund Uses – Counties, Cities, Towns, and Villages

Counties, cities, towns, and villages are to use donations received by the fund for “charitable purposes.”

The governing board of all counties, cities, towns, and villages has the flexibility to transfer funds from the charitable gifts reserve fund to the general fund or other fund of the local government whenever appropriate so that funds may be used for charitable purposes. For counties and New York City, in addition to any other transfers from the charitable gifts reserve fund made throughout the year, the governing board shall transfer these funds to the general fund or other fund of the local government within 60 days of the close of a fiscal year.

The creation of these charitable contribution funds and the use of resources from these funds will not impact the calculation of the property tax cap.

Acknowledgement of Donation to the Charitable Fund

When a local government/school district receives a donation to the charitable contribution fund, the administrator of the fund or the fund's designated agent shall provide an acknowledgement in duplicate of the donation using the acknowledgement form prescribed by the Department of Taxation and Finance. This form specifies:

- the amount of the contribution,
- the name and address of the donor,
- the day the contribution was received,
- a statement that no goods or services were provided in exchange for the donation, and
- the signature of the local government/school district administrator of the fund.

If a taxpayer wishes to receive a real property tax credit for their contribution, they must present this completed acknowledgement form and a credit claim form to the local government/school district property tax collecting officer, as outlined below. The local government/school district shall ensure that the donor does not receive any goods or services in exchange for the donation.

Establishment and Administration of Real Property Tax Credit for Donations to Charitable Funds

This section of the guidance outlines:

- how school districts and local governments can authorize a real property tax credit for contributions to their charitable funds, including how they can alter the value of the credit; and
- how taxpayers can claim the credit, including the timing of donations and applying for a refund of the credit once taxes have been paid.

Authorizing Real Property Tax Credits for Contributions to Charitable Funds

If a local government or a school district has established a charitable contribution fund, it is authorized to establish a real property tax credit for contributions to the fund. To authorize the real property tax credit, a local government must adopt a local law and a school district must adopt a resolution. This authority is granted in section 980-a of the Real Property Tax Law.

The amount of the credit cannot exceed 95 percent of the contribution to the charitable contribution fund. A local government/school district may further limit the value of the credit, by amount or by percentage of contribution, through local law (local governments) or resolution (school districts). After adoption, this lower limit may be adjusted or repealed, but the changes can only apply prospectively – to fiscal years after the current fiscal year.

To the extent that contributions to the fund exceed the value of the credits provided, it would be fiscally prudent to not expend these excess resources until a sufficient time has passed to ensure that all credits are fully claimed and refunded, as discussed below.

To ensure that the credit can be properly administered, the local government/school district must provide a copy of any such local law/resolution to the collecting officer who collects the taxes of the local government/school district.

Eligibility for Tax Credit – Timing and Ownership

Donations received in the 12-month period prior to the last day prescribed by law that taxes may be paid without interest or penalties are eligible for a tax credit in that year.

For example, if local government property taxes are due on January 31, 2019 for the 2019 property tax bill, then donations made from February 1, 2018 through January 31, 2019 would be eligible for a tax credit on the 2019 local government property tax bill. If school district property taxes are due on September 30, 2019, then donations made

from October 1, 2018 through September 30, 2019 would be eligible for a tax credit on the 2019 school district property tax bill.

- If taxes are payable in installments, the 12-month period ends on the last day prescribed by law on which the first installment of such taxes may be paid without interest or penalties.
- For the "Big 5" school districts (i.e., New York City, Buffalo, Rochester, Syracuse, and Yonkers), the 12-month period ends on the last day prescribed by law on which city taxes may be paid without interest or penalties, or if applicable, on the last day prescribed by law on which the first installment of such taxes may be paid without interest or penalties.
- This 12-month period is to be determined regardless of the possibility that the last day on which taxes may be paid without interest or penalties may be extended due to a delay in the first publication of the collecting officer's notice or due to an executive order issued in connection with a state disaster emergency.

In order to be eligible for a tax credit for a given property, the donations must come from an owner of the property.

Claiming the Credit

Along with the donation acknowledgement form received from the local government/school district when the donation was made, the property taxpayer is to submit a credit claim form to the collecting officer for the local government/school district on or before the last day on which taxes may be paid without interest or penalties. The credit claim form has been developed by the Department of Taxation and Finance and includes:

- the name of the property owners,
- the day and amount of contributions made to the charitable account during that year, and
- the address of the property to which the credit claim relates.

The collecting officer for the local government/school district will then give a credit to the taxpayer equal to 95 percent of the contribution, or such lower amount as may be prescribed by the local government/school district. This will reduce the tax liability on the parcel accordingly, but may not exceed the property taxes due to that local government/school district. If property taxes are paid in installments, any excess will be applied to future installments owed for that year.

Refund of Credit After Taxes Paid

If a property owner fails to present the acknowledgement of donation form and the credit claim form to the collecting officer on or before the last day on which taxes may be paid without interest or penalties, the property owner may present these forms to the local government/school district chief fiscal officer/chief financial officer or their designee and receive a refund of property taxes in the amount of the credit.

This refund is not eligible for any interest payments from the local government provided if the local government pays the refund within 45 days of the receipt of the donation form and credit claim form. This request for a refund may be submitted at any time during the three-year period beginning immediately after the last day on which taxes may be paid without interest or penalties.

Issuance of Tax Bills Reflecting Credits

In addition to the processes for claiming the credit and receiving a refund of taxes described above, a local government may adopt a local law or a school district may adopt a resolution allowing for the issuance of tax bills that reflect any credits that are claimed before the tax warrant is issued or before such other date as specified in the local law/resolution. However, when the taxes for the local government or school district are collected by a collecting officer employed by a different local government or school district, the governing body of the local government/school district that employs the collecting officer must also adopt a resolution agreeing to implement such tax bill reductions.

Mortgage Escrow Adjustments

The Department of Financial Services, in consultation with the Department of Taxation and Finance, will promulgate regulations related to the adjustment of mortgage escrow accounts to reflect these tax credits.

State Income Tax Itemization

The amount of the itemized deduction with respect to the taxes paid on a property that may be claimed by a taxpayer on state income taxes is to be reduced by the amount of the credit received.

Contact Information

Local government or school district officials with questions can email LocalCharitableContributions@ny.gov.

Disclaimer: This guidance is designed to outline key aspects of the statute. It does not represent legal or tax advice. It is recommended that taxpayers consult a qualified tax advisor regarding their personal situation.

TOWN OF LEWISBORO

LOCAL LAW NUMBER __-2018 OF THE TOWN OF LEWISBORO

ENACTMENT OF CHAPTER 181
OF THE LEWISBORO TOWN CODE

BE IT ENACTED by the Town Board of the Town of Lewisboro, Westchester County, New York, as follows:

Section 1. Chapter 181, entitled “Retail Checkout Bags and EPS (Styrofoam),” is hereby enacted to read as follows:

Chapter 181

RETAIL CHECKOUT BAGS AND EPS (STYROFOAM)

§181-1. Purpose.

§181-2. Justification.

§181-3. Definitions.

§181-4. Restriction on checkout bags.

§181-5. Effective Date.

§181-6. Penalties for offenses.

§181-1. Purpose.

The purpose of this chapter is to improve the environment in the Town of Lewisboro (the “Town”) and to protect the health, safety and general welfare of its residents by encouraging the use of reusable cloth or heavy plastic bags and banning single-use plastic bags for retail checkout of purchased goods. Retail establishments are encouraged to make cloth reusable bags available for sale and to encourage shoppers to bring their own reusable bags. In furtherance of the

aforementioned purpose, it is also the intention of this chapter to prohibit the use of styrofoam containers and styrofoam cups by delis, food stores, food establishments and restaurants.

§181-2. Justification.

Non-biodegradable plastic bags are often discarded into the environment. Only a portion of them are deposited into landfills, while the remaining portion contributes to the pollution of our waterways, clogs sewers, endangers wildlife, and becomes litter which negatively impacts the natural beauty of the Town. Further, small plastic particles which have a toxic chemical composition are consumed by fish, which are then consumed by humans, which has been shown to be harmful to human health. Studies show that styrofoam containers are a contributing factor to cancer in humans as toxic chemicals from such containers leech into the food and drink contained therein.

§181-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHECKOUT BAG – A carryout bag that is provided to a customer at the point of sale. The term “checkout bag” does not include plastic produce bags or plastic bags measuring 28 inches by 36 inches or larger in size.

PLASTIC PRODUCE BAG – A flexible container bag made of very thin plastic material with a single opening used to transport produce, meats or other items selected by customers to carry said items to the point of sale.

RECYCLABLE PAPER BAG – A paper bag that i) contains no old growth fiber, ii) is 100% recyclable, iii) contains a minimum of 40% post-consumer recycled content, and iv) displays the words “recyclable” on the exterior of the bag.

RETAIL SALES – The transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmer’s markets, flea markets, tag sales, sales by residents at their homes and sales by non-profit organizations.

RETAILER – Any person or entity engaged in retail sales.

REUSABLE BAG – A bag with handles made of cloth or other fabric and/or made of durable plastic that is at least 2.25 mils thick.

STYROFOAM – Any type of expanded polystyrene foam (“EPS”) material.

§181-4. Restriction on checkout bags.

Retailers shall only provide reusable bags and recyclable paper bags as checkout bags to customers. Retailers may charge customers \$0.15 for each paper bag. Nothing in this section shall prohibit retailers from making reusable cloth bags available for sale to customers at a price determined by the retailer.

§181-5. Effective Date.

This chapter shall become effective upon one hundred eighty days following the date it is enacted. This provision is intended to provide retail establishments with the ability to dispose of their existing inventory of plastic checkout bags and/or styrofoam containers and cups.

§181-6. Penalties for offenses.

Any person or entity who violates the provisions of this chapter shall be guilty of a violation, punishable by a fine not exceeding \$250 for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$500 nor more than \$700; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each

day's continued violation shall constitute a separate additional violation as may be cited.

Section 2. If any provision of this Local Law is declared illegal, unconstitutional or unenforceable by a court of competent jurisdiction, the remainder of this Local Law shall be declared to have been separately adopted and shall remain in full force and effect.

Section 3. This local law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.

Dated:

BY THE ORDER OF THE TOWN BOARD OF
THE TOWN OF LEWISBORO

JANET L. DONOHUE, TOWN CLERK