

**MINUTES OF A REGULAR MEETING
OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF THOMASTON**

June 14, 2021

The Board of Trustees met on Monday, June 14, 2021 at via videoconference at 7:30 p.m.

Present: Mayor Steven Weinberg, Deputy Mayor James Sharkey, Trustee To-on Pang, Trustee Jill Monoson, and Trustee Burton Weston

Absent: None

The Mayor opened the meeting at 7:40 p.m. Trustee To-on Pang was not present at the beginning of the meeting.

Mayor Weinberg read the following statement regarding the procedures for this meeting:

“Due to public health and safety concerns related to COVID-19, and pursuant to Governor’s Executive Orders, this meeting of the Board of Trustees is not being held in person.

The Board is meeting by videoconferencing. The meeting will be recorded and a transcription will be provided at a later date. The public has the opportunity to observe this meeting live online and to submit comments, pursuant to instructions given on the Village website and in the meeting notice.

Interested members of the public may provide comments on an agenda item or public hearing by calling in during the meeting at **(646) 558-8656, Meeting ID: 878 9018 6523, Password: 794296** or through the written chat section of the Zoom meeting. Comments may also be provided via email before and during the meeting to clerk@villageofthomaston.org.

The Village Administrator will now call the roll for attendance at this meeting by members of the Board and relevant Village staff.”

The Village Administrator called the roll.

A quorum of the Board was in attendance, and the board began the business of the meeting.

Adoption of Minutes

RESOLUTION 21-54

Upon motion of Trustee Weston, seconded by Trustee Monoson, and unanimously approved, the following resolution was adopted:

RESOLVED, that the minutes of the Board of Trustees meeting held on May 10, 2021 are hereby approved and accepted as presented.

The vote on this resolution was:	Mayor Weinberg:	Aye	Deputy Mayor Sharkey:	Aye
	Trustee Monoson:	Aye	Trustee Weston:	Aye

Draft Financial Statements FYE February 28, 2021

The Board reviewed the draft financial statements for the FYE February 28, 2021.

RESOLUTION 21-55

Upon motion of Trustee Monoson, seconded by Deputy Mayor Sharkey, and unanimously approved, the following resolution was adopted:

RESOLVED, that the draft financial statements for the FYE February 28, 2021 are hereby accepted as presented.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Weston: Aye

Annual Audit for FYE February 28, 2022

The Board reviewed a proposed engagement letter from Skinnon and Faber, Certified Public Accountants, P.C. for the audit of the financial statements of the 2021/22 fiscal year. The cost for the audit will be \$9,400. The cost for last year's audit was \$9,200.

RESOLUTION 21-56

Upon motion of Trustee Weston, seconded by Trustee Monoson, and unanimously approved, the following resolution was adopted:

RESOLVED, that the Board of Trustees hereby authorizes the Mayor to execute the June 10, 2021 letter of engagement from Skinnon and Faber, Certified Public Accountants, P.C. for the audit of the Village's financial statements for the 2021/22 fiscal year.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Weston: Aye

A copy of the financial statements are on file at the village office.

Trustee To-on Pang arrived at 7:50 p.m.

Temporary continuation of services provided by Meadow Carting Corp.

RESOLUTION 21-57

Upon motion of Trustee Monoson, seconded Trustee Weston, and unanimously approved, the following resolution was adopted:

WHEREAS, on March 8, 2021, the Board of Trustees adopted Resolution No. 21-33 authorizing the Mayor to temporarily continue collection and disposal of solid waste services provided by Meadow Carting Corp. pursuant to the terms and conditions of the agreement with the Village which expired on October 31, 2019, and

WHEREAS, the Board of Trustees authorized the Mayor to temporarily continue in effect the services of Meadow Carting Corp., upon the same terms and conditions, until such time as the Village has entered into a new agreement for the collection and disposal of solid waste pursuant to law, provided, however, that temporary services shall not continue after July 1, 2021 unless further authorized by the Board of Trustees, and

WHEREAS, the Village has not authorized a new agreement for the collection and disposal of solid waste services,

NOW, THEREFORE, IT IS

RESOLVED, that the Mayor is authorized temporarily to continue in effect the services of Meadow Carting Corp., upon the same terms and conditions, until such time as the Village has entered into a new agreement

for the collection and disposal of solid waste pursuant to law, provided, however, that temporary services shall not continue after October 1, 2021 unless further authorized by the Board of Trustees.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

Bill T2021C.1 - Incentive Zoning in Apartment B District

The Board discussed Bill T 2021C.1 Attachment A), a proposed local law to amend the Code of the Village of Thomaston to provide incentive zoning located in certain adjoining zoning districts and a Short Environmental Assessment Form prepared by the Village Attorney with respect to such proposed law.

RESOLUTION 21-58

Upon motion of Mayor Weinberg, seconded Trustee Monoson, and unanimously approved, the following resolution was adopted:

RESOLVED, that the Board hereby finds and concludes that

- (a) the proposed action (Bill T 2021C.1) is an Unlisted action under the State Environmental Quality Review Act and its regulations;
- (b) the Board is the lead agency with respect to environmental review of this proposed action;
- (c) the Board has considered the following factors, and made the following conclusions, in respect to its review of the environmental impacts of the proposed action:
 - (i) the proposed action is adoption of a local law to authorize applications to be made for incentive zoning permits. The Board is not required to grant any such application, and the incentive zoning use is not an as of right use. Because this proposed action only allows an application to be made, and does not itself authorize any use of property, the proposed law has no environmental impact. Any application for an incentive zoning permit will require environmental impact review pursuant to SEQRA;
 - (ii) the proposed action would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;
 - (iii) the proposed action would not result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;
 - (iv) the proposed action would not impair the environmental characteristics of any Critical Environmental Area;
 - (v) the proposed action would not conflict with the community's current plans or goals as officially approved or adopted;
 - (vi) the proposed action would not impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;
 - (vii) the proposed action would not result in a major change in the use of either the quantity or type of energy;

(viii) the proposed action would not create a hazard to human health;

(ix) the proposed action would not create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(x) the proposed action would not encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action;

(xi) the proposed action would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;

(xii) the proposed action would not create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;

(xiii) the proposed action would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;

(d) the proposed action would not have a significant adverse environmental impact; and

(e) no further environmental review is required with respect to the proposed action; and

(f) the Mayor is hereby authorized to complete and execute Part 3 of the Environmental Assessment Form consistent with this resolution.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

RESOLUTION 21-59

Upon motion of Trustee Weston, seconded Trustee Monoson, and unanimously approved, the following resolution was adopted:

RESOLVED, that a public hearing be held on July 12, 2021 at 7:30 p.m. with respect to the proposed adoption of Bill T2021C.1, entitled "A local law to amend the Code of the Village of Thomaston, in relation to incentive zoning for property located in certain adjoining zoning districts," and it is further

RESOLVED, that the Village Clerk is directed to publish, post and otherwise give notice of such hearing as may be required by law, and it is further

RESOLVED, that the Village Attorney is authorized submit the Bill T2021C.1 to the Nassau County Planning Commission for its recommendation as required by General Municipal Law 239-m.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

Bill T2021D – Exterior HVAC Installations and Equipment

The Board discussed Bill T 2021D (Attachment B), a proposed local law to amend the Code of the Village of Thomaston in relation to location of exterior HVAC installations and equipment and a Short Environmental Assessment Form prepared by the Village Attorney with respect to such proposed law.

RESOLUTION 21-60

Upon motion of Mayor Weinberg, seconded Trustee Weston, and unanimously approved, the following resolution was adopted:

RESOLVED, that the Board hereby finds and concludes that

(a) the proposed action (Bill T 2021D) is an Unlisted action under the State Environmental Quality Review Act and its regulations;

(b) the Board is the lead agency with respect to environmental review of this proposed action;

(c) the Board has considered the following factors, and made the following conclusions, in respect to its review of the environmental impacts of the proposed action:

(i) the proposed action would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;

(ii) the proposed action would not result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;

(iii) the proposed action would not impair the environmental characteristics of any Critical Environmental Area;

(iv) the proposed action would not conflict with the community's current plans or goals as officially approved or adopted;

(v) the proposed action would not impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;

(vi) the proposed action would not result in a major change in the use of either the quantity or type of energy;

(vii) the proposed action would not create a hazard to human health;

(viii) the proposed action would not create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(ix) the proposed action would not encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action;

(x) the proposed action would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;

(xi) the proposed action would not create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;

(xii) the proposed action would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or

adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;

(d) the proposed action would not have a significant adverse environmental impact; and

(e) no further environmental review is required with respect to the proposed action; and

(f) the Mayor is hereby authorized to complete and execute Part 3 of the Environmental Assessment Form consistent with this resolution.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

RESOLUTION 21-61

Upon motion of Deputy Mayor Sharkey, seconded Trustee Pang, and unanimously approved, the following resolution was adopted:

RESOLVED, that a public hearing be held on July 12, 2021 at 7:30 p.m. with respect to the proposed adoption of Bill T2021D, entitled "A local law to amend the Code of the Village of Thomaston, in relation to location of exterior HVAC installations and equipment," and it is further

RESOLVED, that the Village Clerk is directed to publish, post and otherwise give notice of such hearing as may be required by law.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

New Business

The Mayor read the public works report.

Vouchers

RESOLUTION 21-62

Upon motion of Trustee Pang, by seconded by Deputy Mayor Sharkey, and unanimously approved, the following resolution was adopted:

RESOLVED, that the vouchers, in the aggregate amount of \$87,026.56 (as itemized on the Abstract of Vouchers dated Monday, June 14, 2021), are hereby approved for payment, all allocated to the General Fund.

A copy of the approved voucher list is attached to these minutes.

The vote on this resolution was: Mayor Weinberg: Aye Deputy Mayor Sharkey: Aye
Trustee Monoson: Aye Trustee Pang: Aye
Trustee Weston: Aye

Adjournment

At 8:11 p.m., there being no further business, the motion to adjourn was made by Trustee Weston, seconded by Trustee Monoson, and unanimously approved.

Respectfully Submitted,

Denise M. Knowland
Village Administrator

INC. VILLAGE OF THOMASTON**AUDITED VOUCHERS**

May 11 through June 14, 2021

Type	Date	Num	Name	Amount
Check	05/14/2021	ACH	MICHAEL F. MCNERNEY ARCHITECT PLLC	-1,638.75
Check	05/17/2021	3111	WATER AUTHORITY OF GREAT NECK NORTH	-43.47
Check	05/17/2021	3112	PSEGLI	-83.26
Check	05/17/2021	3113	NATIONAL GRID	-337.83
Check	05/17/2021	3114	NATIONAL GRID	-96.45
Check	05/17/2021	3115	NATIONAL GRID	-246.47
Check	05/17/2021	3116	NATIONAL GRID	-189.83
Check	05/26/2021	3117	PSEGLI	-480.59
Check	05/26/2021	3118	PSEGLI	-50.82
Check	05/28/2021	3121	MICHAEL F. MCNERNEY ARCHITECT PLLC	-1,322.50
Check	06/01/2021	3122	VERIZON	-452.46
Check	06/01/2021	3123	MANHASSET-LAKEVILLE WATER DISTRICT	-16.20
Check	06/01/2021	3124	PSEGLI	-10.36
Check	06/01/2021	3125	PSEGLI	-262.75
Check	06/08/2021	3126	VERIZON WIRELESS	-75.43
Check	06/11/2021	ET	MICHAEL F. MCNERNEY ARCHITECT PLLC	-977.50
Check	06/14/2021	3128	NYS EMPLOYEES' HEALTH INSURANCE	-7,600.05
Check	06/14/2021	3129	AUTO BARN	-145.69
Check	06/14/2021	3130	JOANNE HORROCKS	-265.00
Check	06/14/2021	3131	BEARDSLEE TRANSMISSION EQUIPMENT CO., INC	-48.51
Check	06/14/2021	3132	PERMA	20,863.00
Check	06/14/2021	3133	GARY MUHLSTOCK	-500.00
Check	06/14/2021	3134	NYSPSP	-246.98
Check	06/14/2021	3135	VELVETOP PRODUCTS	-1,843.90
Check	06/14/2021	3136	COSTELLO'S HARDWARE	-122.18
Check	06/14/2021	3137	B & R PLUMBING & HEATING OF L.I. INC.	-463.00
Check	06/14/2021	3138	SKINNON & FABER, CPA'S, P.C.	-3,271.25
Check	06/14/2021	3139	VOID	0.00
Check	06/14/2021	3140	OPTIMUM	-22.00
Check	06/14/2021	3141	WEX BANK	-418.40
Check	06/14/2021	3142	BLANK SLATE MEDIA , LLC	-491.63
Check	06/14/2021	3143	NYS HCR	-320.00
Check	06/14/2021	3144	FELDMAN LUMBER	-25.48
Check	06/14/2021	3145	PARAMOUNT PEST MANAGEMENT	-225.00
Check	06/14/2021	3146	JEAN MARIE FEINMAN	-827.00
Check	06/14/2021	3147	READYREFRESH BY NESTLE	-116.87

Check	06/14/2021	3148	TOWN OF NORTH HEMPSTEAD-SWMA	-851.93
Check	06/14/2021	3149	MEADOW CARTING CORP	29,519.20
Check	06/14/2021	3150	ATLANTIC SALT	-84.59
Check	06/14/2021	3151	BUSINESS CARD	-14.99
Check	06/14/2021	3152	BUSINESS CARD	-992.34
Check	06/14/2021	3153	STAPLES CREDIT PLAN	-46.89
Check	06/14/2021	3154	HOME DEPOT CREDIT SERVICES	-322.98
Check	06/14/2021	3155	FINE DETAILING	-250.00
Check	06/14/2021	3156	WINTERS BROS. HAULING OF LI, LLC	-245.00
Check	06/14/2021	3157	GENERAL WELDING SUPPLY CORP	-7.50
Check	06/14/2021	3158	MEYER, SUOZZI, ENGLISH & KLEIN, P.C.	-2,070.00
Check	06/14/2021	3159	JENNIFER DEVLIN	-1,011.20
Check	06/14/2021	3160	WATER AUTHORITY OF GREAT NECK NORTH	-43.47
Check	06/14/2021	3161	CANON SOLUTIONS AMERICA, INC.	-5.77
Check	06/14/2021	3162	NYS EMPLOYEES' HEALTH INSURANCE	-7,460.09
				-
				87,026.56
				-
TOTAL				87,026.56

ATTACHMENT A

Bill T2021C. A local law to amend the Code of the Village of Thomaston, in relation to incentive zoning for property located in certain adjoining zoning districts.

Section 1. Article VIII of Chapter 203 of the Code of the Village of Thomaston is hereby amended by adding thereto a new section, to be § 203-54.1, to read as follows:

"§203-54.1 Incentive uses for property located in certain adjoining zoning districts.

- A. This section is enacted by authority of Village Law §7-703, to authorize the Board of Trustees of the Village of Thomaston, acting pursuant to the provisions of this section, to grant incentive use permits pursuant to which property located on the west side of Middle Neck Road, consisting of parcels in certain adjoining zoning Districts, conforming to other requirements in this section, may be used and developed as provided by this section, notwithstanding the provisions of this Code with respect to the respective zoning districts within which such property is located.
- B. The Board of Trustees may grant an incentive use permit pursuant to this section only for property conforming to the following minimum requirements:
 - a. The property is located partially in the Apartment B District and partially within an adjoining Residence 10 District. and
 - b. The property is comprised of total area of at least 0.75 acres, and not more than one acre, having a depth at its greatest point of at least 200 feet, and street frontage on Middle Neck Road of at least 230 feet.
 - c. The maximum permitted residential density for a property to be developed by incentive use permit pursuant to this section shall be subject to determination by the Board of Trustees, but in no event to exceed 84 units per acre.
- C. If an incentive zoning permit is approved pursuant to this section, the property may be developed and used as though it were located wholly within the Apartment B District, subject to any conditions imposed in this section and/or in the approval of such incentive zoning permit.
- D. An application for an incentive use permit pursuant to this section shall include, in addition to any other information customarily required in applications to the Board of Trustees or Board of Appeals for special use permits, a dimensioned site plan and a conceptual landscape plan for the entire site for which such permit is requested, including a landscaping plan.

- E. A building or lot used or developed as authorized by an incentive zoning permit granted pursuant to this section shall not be used for any use other than multifamily residence and accessory uses in the Apartment B District and such other uses as may be authorized in the incentive zoning permit.
- F. Notwithstanding any other provision of this chapter to the contrary, and notwithstanding any authority vested in any other board of the Village, an incentive use authorized pursuant to this section shall conform in all respects to the regulations applicable to uses in the Apartment B District, except that in approving an incentive use permit pursuant to this section the Board of Trustees may authorize parameters of development and use, and impose conditions on such development and use, as authorized in this section.
- G. An incentive use permit authorized pursuant to this section may permit development and use of the subject property including one or more of the following incentives:
 - a. Waiver, in whole or in part, of requirements for lot coverage, yard setbacks, parking, below grade parking within a front, side, or rear yard, height, number of stories, screening, and unit size, provided that the maximum number of residential units shall not exceed eighty (80) units.
 - b. The grant of any other necessary approval(s) by the Board of Trustees, in the place and stead of any approval otherwise required from any other Village board, unless the Board of Trustees shall determine that such other board approval is required. In the sole discretion of the Board of Trustees, where a recommendation is required from any other Village board as a condition precedent to any Board of Trustees approval, the Board of Trustees may waive the requirement for such recommendation.
 - c. Approval of design plans (including proposed structures, paving, parking areas, landscaping, screening, and other features, in the place and stead of any such approval otherwise required from any other Village board. Such approval shall be subject to engineered site plans submitted to the Building Department for its review and approval when the applicant seeks a building permit.
 - d. Approval for underground parking on such property, whether the portion of the property where such parking is located is in the Apartment B District or in an adjoining District.
- H. Provisions for public amenities. An applicant for an incentive use permit pursuant to this section shall include in any such application a plan or proposal for the provision of community amenities, including facilities for public use, whether by transfer, gift, lease, easement or otherwise. In

approving an incentive use permit pursuant to this section, the Board of Trustees shall, to the extent that the same may be feasible, adequate, and acceptable to the Board of Trustees in its sole discretion, require the provision of such amenities, or in the alternative, require payment of a sum to be determined by the Board of Trustees in lieu thereof, pursuant to Village Law § 7-703. The Board of Trustees shall have authority to require other or different community amenities or payment in lieu thereof, or a combination of such, as it may deem appropriate and as permitted by law.

- I. The determination whether any incentive zoning permit application is acceptable, feasible, adequate, or in a form acceptable to the Village, or whether and on what conditions an incentive use permit may be granted, shall rest in the sole and unfettered discretion of the Board of Trustees, which may decline such application in such sole discretion. No person shall have a right to approval of any incentive zoning permit application, with or without conditions.
- J. The maximum permitted residential unit density for an incentive development pursuant to this section shall be 84 units per acre. In granting an incentive zoning permit pursuant to this section the Board of Trustees shall have authority, in its sole discretion to approve fewer units than the permitted maximum density. Each approval of an application for an incentive use permit pursuant to this section shall include a requirement that not more than ten (10%) percent of the total number of approved units be reserved and occupied only by individuals and families that have incomes between 80% and 120% of the median income for the Nassau-Suffolk primary metropolitan statistical area as defined by the federal Department of Housing and Urban Development. All of such affordable housing units shall be located on site.
- K. In connection with the approval of any application pursuant to this section, the Board of Trustees may impose any additional terms and conditions which it finds necessary and appropriate to protect the public health, safety and general welfare.
- L. Hearing. No incentive use permit shall be granted or amended pursuant to this section except after a public hearing before the Board of Trustees. The said public hearing shall be noticed, held and conducted in the same manner as is required for a public hearing before the Board of Appeals for a use variance. Notwithstanding the foregoing, where an amendment to a previously approved incentive zoning permit consists only of an extension of time in which any act must be performed or completed pursuant to such permit, the Board of Trustees, acting in its sole discretion, may waive or modify the requirement for a public hearing with respect to such amendment.
- M. Determination. The determination whether to grant an incentive zoning permit application in whole or in part shall be in the sole discretion of the

Board of Trustees. No person or entity shall have any right to such a permit under any circumstances unless and until such a permit is approved by the Board of Trustees. Any such approval by the Board of Trustees may be granted upon reasonable conditions.

- N. Waiver of right to seek other change of zone or variance. The acceptance and use of an incentive zoning permit granted pursuant to this section shall constitute an irrevocable waiver on the part of the owner of the subject property of any right to, and an irrevocable agreement by such owner and such owner's heirs, successors and assigns as owner of such property, not to seek or accept, any future variance or change of zone with respect to any portion of the property without the prior consent of the Board of Trustees.
- O. Costs. As required by Village Law § 7-703, Subdivision 3(c), any applicant who applies for an incentive use permit pursuant to this section shall pay to the Village a proportionate share of the reasonable expenses or costs of preparation or review of any environmental impact statement, or other studies prepared in connection with the enactment of this section or in the review and determination of any incentive use application pursuant to this section. Said costs shall be added to any other site-specific charges authorized to be imposed on said applicant for environmental studies and review. These costs shall be apportioned among applicants according to the number of applicants required to share in such costs. Monies paid by a prior applicant shall be proportionately reimbursed in the event of a subsequent applicant who may be responsible for, and pays, a portion of these costs.
- P. Fees and Reimbursements. An applicant for an incentive use permit pursuant to this section shall be required to pay an application fee in an amount as may be determined by the Board of Trustees by resolution. In addition to such application fee, the applicant shall be required to deposit funds sufficient to reimburse the Village's expenses for engineering, environmental, planning, and other professional services reasonably required for review of the application (including reasonable attorneys' fees), the costs of mailing and publishing legal notices, and stenographic expenses for public hearings. Any such deposit shall be replenished by the applicant from time to time upon written request from the Village Clerk in such manner as to maintain a specified balance in such fund. In the event the applicant fails to maintain any required balance, the Village shall not be obligated to process the application further until such time as the required balance is restored. Upon the conclusion of the application or review process by final determination, or by withdrawal of the application, any remaining balance in such fund after payment of all such expenses shall be refunded to the applicant upon written request."

Section 2. Effective date.

- a. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law, and shall remain in effect for one hundred fifty (150) days after such effective date, after which period of time this local law shall expire.
- b. Notwithstanding the expiration of this law, the provisions of this law shall continue and remain in effect with respect to any application for an incentive zoning permit duly and timely filed on or before such expiration date, and the Board of Trustees may act upon and determine any such application pursuant to the provisions of this law notwithstanding the expiration of this law.
- c. Notwithstanding the expiration of this law, in any case where the Board of Trustees has approved an incentive zoning application pursuant to this law, in whole or in part, the Board of Trustees, in its sole discretion, shall continue to have and exercise jurisdiction pursuant to this law, to approve any amendment of such approval pursuant to the procedures and other provisions stated in this local law for an incentive zoning permit application. A public hearing shall be required for any such amendment application, except that the Board of Trustees may waive any requirement for public hearing with respect to an application which seeks relief only for an extension of time to perform any act required by the incentive zoning permit.

Bill T2021D. A local law to amend the Code of the Village of Thomaston, in relation to location of exterior HVAC installations and equipment

Section one. Section 203-122 of the Code of the Village of Thomaston is hereby amended, to read as follows:

“§ 203-122 Air-conditioning and/or heating system equipment.

A. Permit required. No person, firm or corporation may install or replace outdoor air-conditioning equipment (compressors, cooling towers, and other air-conditioning system equipment, including ductless split systems) within the Village of Thomaston except in compliance with the provisions of this section, and with a permit from the Building Official. No permit shall be issued until all required fees are paid. No person shall maintain or operate any such equipment installed after the effective date of this section without a permit as required by this section.

(1) Such permit application shall include (i) a brief description of the equipment proposed to be installed. (ii) a copy of the manufacturer’s specifications for the unit to be installed, (iii) the sound rating of the unit, (iv) a survey of property marked with the location and size of the proposed equipment, the distances to the side and rear property lines, and the distance from the front-most portion of the dwelling (for side installations), (v) the proposed screening as required by this section and (vi) such other information as may reasonably be required by the Building Official.

(2) Such application shall also be accompanied by payment of a permit fee, in an amount established from time to time by resolution of the Board of Trustees.

B. Residential Zones R-6, R-7, R-7C, R-8, R-9, R-9B, R-9C, R-10: In addition to the requirements set forth in paragraph (A) of this section, all outdoor compressors, cooling towers and other air-conditioning system equipment, including ductless split systems shall be located in the rear yard or side yard as follows:

(1) Rear yard installations shall be located immediately adjacent to the rear wall of the dwelling, at least 20 feet distant from the rear property line, and a distance from the side property lines not less than the minimum side yard setback for the zone in which the property is located.

(2) Side yard installations shall be located immediately adjacent to the side wall of the dwelling, at least 10 feet from the front-most portion

of the wall of the dwelling along which the equipment is placed, and a distance from the side property line not less than the minimum side yard setback for the zone in which the property is located.

- (3) In the case of a corner lot, all outdoor compressors, cooling towers and other air-conditioning system equipment, including ductless split systems shall be located in the side yard having the greatest width and as set forth in paragraph B(2) of this section.

Notwithstanding the foregoing, the

Board of Trustees may permit outdoor compressors, cooling towers and other air-conditioning system equipment, including ductless split systems to be located adjacent to the façade that is the front yard without an entrance to the dwelling. Such installations shall also comply with paragraphs (B)(2) and (E) of this section.

- C. Non-Residential and Residence A-B Zones: In addition to the requirements set forth in paragraph (A) of this section, all outdoor compressors, cooling towers and other air-conditioning system equipment, including ductless split systems, shall be located in the rear yard as set forth in paragraph B(1) of this section, or on the roof of the structure. All such equipment in rooftop locations shall be set back from the roof edge not less than 10 feet and shall be surrounded by a form of screening approved by the Village Building Official.
- D. No residential outdoor air-conditioning system equipment may emit sound which exceeds a sound rating of 75 dBA at the nearest property line. A copy the manufacturer's specification for such equipment, including the sound rating of the equipment to be installed, shall be submitted with the permit application .
- E. All residential outdoor air-conditioning equipment located in a side yard shall be fully screened from the adjoining property and the street by evergreen plantings having a minimum height of 6 inches above the highest point of the equipment or solid fencing, having a minimum height of 6 inches above the highest point of the equipment subject to the requirement of §203-107 (Fences). All such screening shall be in accordance with a plan submitted with the permit application and approved by the Building Official.
- F. All outdoor air-conditioning equipment (as defined in paragraph A of this section) installed at a residential property which is the subject of this section, and was lawfully installed prior to the effective date of this section may remain in its existing location. No such equipment shall be replaced except with a permit requirement as required by this section. It shall be presumed that any outdoor air-conditioning equipment at a residential property was not lawfully installed before the effective date of this section; the burden of proof shall be upon the property owner to demonstrate to the satisfaction of the Building

Official that such equipment was lawfully installed prior to such effective date. Submission of a permit, certificate of completion, or similar documentation shall be sufficient to rebut such presumption.”

Section two. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.