

**PUBLIC HEARING & REGULAR MEETING
TOWN OF CONESUS
MAY 3, 2022**

A regular meeting and public hearing of the Town Board of the Town of Conesus, County of Livingston and the State of New York was held at the Town Hall, 6210 South Livonia Road, Conesus, New York on the 3rd day of May 2022.

PRESENT:	Donald Wester	-----	Supervisor
	Richard Corrigan	-----	Councilman
	John Fama	-----	Councilman
	Anita Martucio	-----	Councilwoman
	Gary Sparks	-----	Councilman/Deputy Supervisor
	Annette McNinch	-----	Clerk
	Dan Marusiak	-----	Highway Superintendent
	Don Young	-----	Attorney

OTHERS PRESENT: Ron Maxwell, Code Enforcement Officer; Stephen Martucio, Deputy Highway Superintendent; Brenda Eddy, Historian; Reinhard Gsellmeir, ZBA Alternate Member and members of the community.

Supervisor Wester called the meeting to order at 7:00 PM
Supervisor Wester led the Pledge to the Flag.

OPEN PUBLIC HEARING: LOCAL LAW #2 FENCE LAW

Supervisor Wester declared the Public Hearing open at 7:05PM Supervisor Wester read Notice of Hearing for the record.

PUBLIC COMMENT

Supervisor Wester invited Board Members and the Public to make comments.
A 3-minute time limit would be allowed.
Councilman Fama was appointed timekeeper

No Comments

RESOLUTION #47.22

CLOSE PUBLIC HEARING

On a motion of Councilman Sparks and seconded by Councilwoman Martucio the following resolution was

ADOPTED	Ayes	5	Wester, Fama, Martucio, Sparks, Corrigan
	Nays	0	

Resolved that with no one further wishing to speak, the Public Hearing for Local Law #2 of 2022 Fence Law was declared closed at 07:10PM.

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REGULAR MEETING

ANNOUNCEMENTS AND COMMUNICATIONS

1. Next Town Board Tuesday May 17, 2022, 7PM
2. There are still a few COVID 19 Rapid test kits available call 738-0753 or email dwester@town.conesus.ny.us if you are interested.

REPORTS OF TOWN OFFICIALS:

Town Clerk – Clerk McNinch:

- March Report – Tabled

Supervisor – Supervisor Wester

- March Report - Tabled

Highway Superintendent – Dan Marusiak

- Two Candidates have been interviewed for open positions.
- Requested budget transfer to cover lab testing for employees. Expense is higher than expected due to new hires. As of this date the budget line DA5140.4 is short \$18.00.
- Department is currently working on roadside ditching and mowing.

Code Officer Report – Ron Maxwell

- Busy with permits, inspections, etc.
- Received an application for a freestanding residential solar device. The homeowner will be seeking a variance from the moratorium on solar activity.
- Dock complaints are being received and dealt with as necessary.

Assessor Report – Michael and Tina Rados

- Mr. Rados has been meeting with residents for informal hearings of assessments on Wednesdays.
- Two mor weeks of informal hearings are scheduled for the 4th and the 11th.
- The Tentative Assessment Roll has been filed with Livingston County and Mr. Rados has picked up the hard copy which is in the office for public view.
- Phone calls have significantly reduced with just a couple each week.
- Currently 2 individuals have signed up for Grievance Day.

UPDATES ON KEY ISSUES:

Conesus Lake: Councilman Fama

- Watershed Education Center is offering the following programs via ZOOM or at the Center - Pre-Register at the CLA Website: www.conesuslake.org:
 - May 18 Managing our Water Resources
 - June 29 Native American Storyteller
 - July 20 Invasive Species Update
 - August 10 Lake Photography Workshop
 - August 24 Ag BMPs and their effect on the Watershed
 - September 14 Trends in Water Quality
 - October 26 Managing Wildlife
 - November 15 Amphibians
 - December 7 SUNY Brockport/Geneseo Student Projects

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Conesus and Livingston County Planning Board: Reports: Councilwoman Martucio

- County Planning Board – Unable to attend
- Conesus Planning Board
 - A public hearing was scheduled but necessary paperwork was not received
 - Mark’s Marina will be seeking a plan review for upcoming projects.

ZBA Reports: Councilman Corrigan

- A public hearing scheduled for the raising and rebuild of a home on East Lake Rd. was pulled for revisions.
- Lakeside impervious surfaces - Councilman Corrigan reports that a few meetings have been held on this subject. It is nearing completion and will be sent to the Town Attorney for review.

Livingston County/Town Report: Supervisor Wester

- On 5/14/2022 the County is hosting a Family Fest at Al Lorenz Park in Mt. Morris. Some of the events will be a child car seat check, bike safety rodeo, and other children’s and family activities.
- Senator Gallivan, Assemblywoman Burns and Congressman Jacobs met with the Board of Supervisors regarding the State mandate that no propane or gas appliances can be installed starting in 2030. They urged citizen and County involvement to prevent this.
- Supervisor Wester attended the Teen Recognition Award Banquet. The Town of Conesus had 9 Teens recognized:
 - Sabrina Adamson
 - Emma Calkins
 - Mollie Flanagan
 - Mary Gammon
 - Elliot Gavin
 - Andrew Kranz
 - Carly Lang
 - Caleb Cogswell
 - Lucas Stewart
- Ian Coyle provided a snapshot of the County:
 - County is healthy relative to COVID
 - Financially healthy
 - Programs are healthy

Town Facilities Maintenance Report: Councilman Corrigan

- Town Hall Exterior Painting – Councilman Corrigan presented a bid package that has been vetted and approved by the Town Attorney Donald Young. The bids are to be submitted to Councilman Corrigan by June 16, 2022.

Reports of Projects:

- **Justice committee report:** Councilman Sparks.
 - Waiting to receive information requested from other officials
 - Needs to know deadline for November’s Ballot
- **Solar and Battery Storage Committee** - Supervisor Wester
 - Meetings are being held via ZOOM.

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UNFINISHED BUSINESS:

- **Funding for Watershed Education Center** – The Board discussed and approved funding support for the Watershed Education Center. It was decided that One Thousand Dollars be given to the Center for audio visual tech at the Center. A necessary Budget Line transfer from A7550.4 Celebrations to A7010.4 Council on the Arts in the amount of \$1000.00 was approved to appropriately cover this expenditure.

NEW BUSINESS:

- **Assessor Position** - Mr. Andrew Mohr Town Assessor has resigned by letter from the Sole Assessor position effective May 4, 2022. Appointments of Mike Rados to the position of Acting Assessor and Tina Rados as Assessor Clerk were approved after discussion. Councilman Corrigan and Councilwoman Martucio felt that the positions should be advertised. While they appreciated them filling in and getting the Town through the Reval process due to Mr. Mohr’s illness and subsequent resignation they felt that with Mr. Rados not being fully certified until the end of this year that there might be someone fully qualified that would like to apply for the job. Mr. Rados has one course left to complete and his training under Tina Rados (a certified NYS Assessor) would be complete at the end of this year. It was mentioned that Mr. Mohr also had to complete his training and course work under Lisa Bennett but was appointed. After much discussion it was agreed to appoint Mr. Rados acting Assessor until 12/31/2022 and Ms. Rados to the Assessor Clerk position thus giving time to review other candidates.
- **Livingston County Water and Sewer Intermunicipal Agreement and Regulations** – Set public hearing date for Local Law #3 2022
- **Intermunicipal Agreement with the Town of Livonia for Funding Support** – This Agreement is necessary to help support activities that benefit the Town of Conesus Residents such as Watershed Education Center programs, Vitale Park Concerts, etc.
- **Watershed Education Center Funding Support** –The Board approved a \$1000.00 expenditure to support the Watershed Education Center.
- **Adoption of Local Law #2 of 2022 Fence Law**
- **Budget Line Transfer relative to IMA with Town of Livonia**

RESOLUTION #48.22

APPROVAL OF MINUTES

On a motion of Councilman Fama and seconded by Councilman Sparks following resolution was

ADOPTED	Ayes	5	Wester, Fama, Martucio, Sparks, Corrigan
	Nays	0	

Resolved that the Town Board approves the minutes of the February 15, 2022 Town Board Meeting with recommended corrections.

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RESOLUTION #49.22

APPROVAL OF MINUTES

On a motion of Councilman Sparks and seconded by Councilman Fama following resolution was

ADOPTED	Ayes	5	Wester, Fama, Sparks, Corrigan
	Nays	0	
	Abstain	1	Martucio (Absent from 3/1/22 Meeting)

Resolved that the Town Board approves the minutes of the March 1, 2022 Town Board Meeting with recommended corrections.

RESOLUTION #50.22

**ADOPTION AND APPROVAL OF INTERMUNICIPAL COOPERATION AGREEMENT
WITH TOWN OF LIVONIA REGARDING PARKS AND RELATED FACILITIES**

On a motion of Councilman Fama and seconded by Councilman Sparks following resolution was

ADOPTED	Ayes	5	Wester, Fama, Martucio, Sparks, Corrigan
	Nays	0	

WHEREAS, the Town of Livonia owns various parklands and certain facilities within the Town of Livonia that are intended to be used for the health, benefit, welfare and education of the public, including residents of both Livonia and Conesus; and

WHEREAS, the Town of Livonia's facilities are used, for example, to provide educational programming (including, but not limited to history, ecology, nature, natural resources and environmental sciences), community gathering, entertainment and recreation programming and other benefits that are available to the general public, and thus which benefit the residents of both Livonia and Conesus; and

WHEREAS, such facilities and parklands require a substantial financial investment for upkeep and operation, and, given the benefit of the same to Town of Conesus residents, the Town of Conesus would like to provide support for the same in order to ensure the full and continuous operation of the same; and

WHEREAS, Article 5-G, §119-O of the NYS General Municipal Law authorizes the Towns of Conesus and Livonia to enter into an Agreement for the purposes set forth above, and the Town of Conesus and the Town of Livonia seek to enter into an Agreement, as attached hereto, regarding their mutual intent with regard to Conesus providing financial support to the facilities, programming and services noted above.

NOW, THEREFORE, BE IT, RESOLVED, by the Conesus Town Board, that it adopts and approves said Agreement.

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RESOLUTION #51.22

APPROVE FUNDING FOR WATERSHED EDUCATION CENTER AND NECESSARY BUDGET TRANSFER PER INTERMUCICIPAL AGREEMENT WITH THE TOWN OF LIVONIA

On a motion of Councilwoman Martucio and seconded by Councilman Fama the following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

Resolved that the Town Board approves a One Thousand Dollar (\$1,000.00) expenditure to the Town of Livonia for funding support of the Conesus Lake Watershed Education Center, and

Further Resolved that the Town Board approves the following budget line transfers to appropriately fund said support:

GENERAL FUND

Transfer from: A7550.4	\$1,000.00
Transfer to: A7010.4	\$1,000.00

RESOLUTION #52.22

SET PUBLIC HEARING REGARDING LOCAL LAW NO. 3 OF 2022 TO ADD A NEW CHAPTER 104 TO THE CODE OF THE TOWN OF CONESUS, LIVINGSTON COUNTY, NEW YORK TO BE KNOWN AS “SEWER USE RULES AND REGULATIONS.” AND AN INTERMUNICIPAL AGREEMENT

On a motion of Councilman Fama and seconded by Councilman Corrigan the following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

WHEREAS, the Town of Conesus and the Livingston County Water and Sewer Authority own, operate and maintain certain sanitary sewer transmission and/or treatment improvements within the Town of Conesus that service residential and commercial properties within the Town; and

WHEREAS, in order for the Town of Conesus and the Livingston County Water and Sewer Authority to properly administer their respective obligations with regard to such publicly owned facilities, it is important that both the Town of Conesus and the Livingston County Water and Sewer Authority have consistent rules and regulations that apply to customer usage of such facilities that treat wastewater; and

WHEREAS, consistent with the above, the Livingston County Water and Sewer Authority has asked that the Town of Conesus (and other surrounding, involved municipalities) approve its standard Sewer Use and Regulations; and

WHEREAS, the Conesus Town Board has before it a draft Local Law to implement such Rules, said draft Local Law is on file with the Town Clerk; now therefore, be it

RESOLVED, by the Conesus Town Board that a public hearing shall be had on the 17th day of May 2022 at 7:00PM, for the purpose of considering the adoption of said Local Law No.3-2022; and, be it further

RESOLVED, the Town Clerk advertise for said public hearing in a manner consistent with the law.

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LOCAL LAW NO. 3 OF THE YEAR 2022 OF THE TOWN OF CONESUS

A local law to add a new Chapter 104 to the Code of the Town of Conesus, Livingston County, New York to be known as “Sewer Use Rules and Regulations.”

Be it enacted by the Town Board of the Town of Conesus as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO ADD A NEW CHAPTER 104 TO THE CODE OF THE TOWN OF CONESUS, LIVINGSTON COUNTY, NEW YORK TO ESTABLISH SEWER USE RULES AND REGULATIONS.”

SECTION 2. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the New York State Town Law § 64 and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Conesus in a fashion that is not inconsistent with the Comprehensive Plan of the Town of Conesus. This Local Law regulates the discharge of sanitary sewage and other types of wastes into any public sewer collection or treatment system within the Town of Conesus.

B. To these ends, this local law and the Chapter that it creates is designed to:

1. Enhance the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan;
2. Properly regulate the discharge of sanitary sewage and other types of wastes into any public sewer collection or treatment system benefitting the Town, in order to protect the health, safety and welfare of the residents of the Town and to protect the various public benefit infrastructure that collects and treats sanitary sewage and other types of wastes within and/or for the benefit of the Town; and
3. Provide for efficient and effective enforcement of rules and regulations ensuring proper use of and discharge into the public sanitary sewer/waste water collection and treatment system.

SECTION 3. CREATION OF NEW CHAPTER 104 SEWER USE RULES AND REGULATIONS

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A. Chapter 104 is hereby added to the Code of the Town of Conesus and shall read as follows:

Chapter 104 Sewer Use Rules and Regulations

§104-1 History.

Both the Town of Conesus and the Livingston County Water and Sewer Authority own, operate and maintain certain sanitary sewer transmission and/or treatment improvements within the Town of Conesus that service residential and commercial properties within the Town.

§104-2 General Purpose.

The purpose of these Sewer Use Rules and Regulations is to provide for efficient, economic, environmentally safe, and legal operation of the publicly owned sanitary sewer system serving properties within the Town of Conesus.

In order for the Town of Conesus and the Livingston County Water and Sewer Authority to properly administer their respective obligations with regard to such publicly owned facilities, it is important that both the Town of Conesus and the Livingston County Water and Sewer Authority have consistent rules and regulations that apply to customer usage of such facilities that treat waste water.

Consistent rules and regulations between the Town and the Authority will allow both parties to most efficiently and effectively ensure proper use of the public sanitary sewer and treatment system and when such rules and regulations are violated, to seek proper enforcement against violating users.

§104-3 Specific Purpose.

The specific purposes of these Regulations are the following:

- A. To prevent the introduction of substances into the publicly owned sanitary sewer system that will:
- (1) interfere with the publicly owned sanitary sewer system in any way;
 - (2) pass through the publicly owned sanitary sewer system to the State's Waters and cause contravention of standards for those waters or cause violation of the publicly owned sanitary sewer system 's SPDES Permit;
 - (3) increase the cost or otherwise hamper the disposal of publicly owned sanitary sewer system sludge and/or residuals;
 - (4) endanger Authority or any municipal employees;

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- (5) cause air pollution, or groundwater pollution, directly or indirectly; and
- (6) cause, directly or indirectly, any public nuisance condition.
- B. To prevent new sources of Infiltration and Inflow as much as possible and eliminate existing sources of Infiltration and Inflow.
- C. To assure that new sewers and connections are properly constructed.
- D. To provide for equitable distribution amongst all users of the Livingston County Water and Sewer Authority Publicly Owned Treatment Works (“POTW”) of all costs, associated with Sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.
- E. To provide enforcement mechanisms to ensure proper usage of the POTW to further the above purposes.

§104-4 Continuity with and Adoption of Livingston County Water and Sewer Authority Rules and Regulations.

- A. In order for the Livingston County Water and Sewer Authority to properly administer its obligations with regard to its facilities within the Town of Conesus, it is crucial that the Authority and Town have the same rules and regulations governing the use of and discharge into the public sanitary sewer and treatment system.
- B. The Town of Conesus hereby adopts as its rules and regulations governing the use of and discharge into the public sanitary sewer and treatment system serving the Town of Conesus, the Livingston County Water and Sewer Authority Sewer Use Rules and Regulations as most recently adopted (as of the date of this local law) by the Livingston County Water and Sewer Authority on September 25, 2019, and as they may be periodically updated by the Livingston County Water and Sewer Authority from time-to-time (unless the Town refuses to ratify any such updates). A copy of the most recent applicable Livingston County Water and Sewer Authority Sewer Use Rules and Regulations, as adopted herein by the Town of Conesus, will be available at the office of the Conesus Town Clerk and in the Town of Conesus Building and Zoning Office.

SECTION 4. EFFECTIVE DATE.

This local law shall be effective after its filing with the NY Office of the Secretary of State.

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Intermunicipal Agreement

Authority, a public benefit corporation in the State of New York with offices located at 1997 D'Angelo Drive, Lakeville, New York 14480 (hereafter "Authority") and the **Town of Conesus**, a municipal corporation in the State of New York with offices at 6210 South Livonia Road/NYS Route 15, Conesus, New York 14435 (hereafter "Town") and which are herein collectively referred to as the "Parties."

WHEREAS, the Parties have the legal authority to enter into this Agreement pursuant to §1199-dddd of the Public Authorities Law and General Municipal Law, Article 5-G; and

WHEREAS, the Authority owns and/or leases, operates and maintains various infrastructure within the jurisdictional boundaries of the Town (hereafter "POTW" which is the acronym for "Publicly Owned Treatment Works") that is used for the collection, conveyance and/or treatment of various types of wastewater for the benefit of the health, safety and welfare of the residents of the Town; and

WHEREAS, the Town is currently not able to efficiently serve all of the wastewater customers within the Town and accordingly, such services are provided by the Authority; and

WHEREAS, the Authority is required, as part of the permitting process necessary to conduct its operations, to have in place rules and regulations of usage in a format that is acceptable to the New York State Department of Environmental Conservation (hereafter "NYSDEC") and the United States Environmental Protection Agency (hereafter "EPA"), that govern the contribution of the various types of wastewater by residents and business contributors located within the Town and served by the Authority; and

WHEREAS, the Authority has adopted, with the consent and approval of the NYSDEC what are known as the Livingston County Water and Sewer Authority Sewer Use Rules and Regulations (hereafter "Regulations"), which such Regulations are attached hereto; and

WHEREAS, the NYSDEC and EPA require, as part of the operating permits granted to the Authority, that the Authority be able to enforce its Regulations with the same force and effect as if they were laws; and

WHEREAS, the Authority, being a public benefit corporation and not a municipality, does not have the legal power to adopt local laws and enforce the same; and

WHEREAS, the Authority desires to enter into this Agreement with the Town to create a formal relationship with the Town so that the Parties can work jointly to enforce the provisions of the Regulations relating to discharge and contribution into the POTW by users within the Town; and

WHEREAS, the Town has the legislative authority to adopt local laws under its Municipal Home Rule and Policing Powers; and

WHEREAS, the Town has the legal authority to enforce its local laws and other regulations that it has adopted (including but not limited to the mandatory NYS Uniform Fire Prevention and Building Code, which includes the International Plumbing Code and

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International Property Maintenance Code) through the Town’s Code Enforcement Department;
and

WHEREAS, if the Town adopts the Regulations by local law, as its “Sewer Use Law,” the Town and Authority can jointly enforce the same by prosecuting violations of the Regulations through the Town’s Code Enforcement Office as violations of a local law of the Town; and

WHEREAS, the Authority and the Town will jointly benefit from proper and thorough enforcement of the Regulations; and

WHEREAS, the Authority may, pursuant to Public Authorities Law §1199-dddd sub. 14 and with the consent of the Town, use officers and employees of the Town and pay or reimburse the Town for the compensation and/or costs for the services of such officer or employee; and

WHEREAS, the Authority desires assistance from the Town to ensure the proper and thorough enforcement of the Regulations as they relate to users of the POTW within the Town and the Authority finds that the users of the POTW will benefit from such proper and thorough enforcement; and

WHEREAS, the Town desires to assist the Authority in the proper and thorough enforcement of the Regulations as they relate to users of the POTW within the Town by adopting the Regulations as its Sewer Use Law and the Town finds that the citizens of the Town will benefit from such proper and thorough enforcement; and

WHEREAS, the Parties wish to formally memorialize the terms under which the Authority and Town will work cooperatively to carry out proper and thorough enforcement of the Regulations.

NOW THEREFORE IN CONSIDERATION OF ONE DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED AS FOLLOWS:

1. Adoption of Regulations by Local Law: The Town agrees that it shall promptly undertake the process of adopting by local law, the Regulations as provided by the Authority. The Authority shall, at its expense and through its legal counsel, prepare a proposed local law for the Town to use for such purposes, which such local law shall be subject to review and approval by the Town’s legal counsel. It is anticipated that the Regulations will require periodic review and updating to comply with the then current NYSDEC and EPA standards. The Town agrees to ratify such changes as may be necessary from time to time, subject to review and approval of any proposed changes by the attorney for the Town, which shall not be unreasonably withheld.
2. Public Hearing for Local Law: The Authority will attend any public hearings regarding the adoption of such local law to assist in answering any questions the Town or its residents might have.
3. Future Enforcement of the Regulations: Once it has adopted a local law to

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establish the Regulations as its Sewer Use Law, the Town shall periodically and on an as-needed basis, assist the Authority in the enforcement of the provisions therein, subject to the Town's retention of its general discretion relative to code enforcement.

4. Use of Town Code Enforcement Officer: In such circumstances when the Authority desires assistance from the Town for enforcement, the Town Code Enforcement Officer will work with the Authority to enforce provisions of the Regulations/Sewer Use Law through issuance of appearance tickets and prosecution of violations in local justice court, all subject to the Town's retention of its general discretion relative to code enforcement.

5. Legal Counsel: The attorney for the Authority (or another attorney selected by the Authority) shall be primarily responsible for prosecuting any such violation and the Authority shall bear the cost of the same. At the request of the Town, the Authority Attorney will keep the Town's Attorney apprised of all enforcement actions.

6. Compensation for Services: All actual costs associated with assistance provided from the Town through its Code Department and Code Enforcement Officer shall be reimbursed by the Authority to the Town within 45 days following submission of a detailed written invoice to the Authority for the same.

7. Indemnification and Hold Harmless: The Authority shall indemnify and hold the Town harmless from any all costs, expenses, damages, claims or awards resulting from any lawsuit or other claim associated with the enforcement of the Regulations, including but not limited to reasonable attorney fees.

8. Independent Contractor: All parties agree that the relationship created by this Agreement is that of an independent contractor and not of employer and employee or principal-agent. No special or temporary employment is created by this Agreement by the Authority requesting assistance from the Town.

9. Insurance: Each party shall maintain at all times during the term of this Agreement statutory Workers' Compensation insurance for its employees and public liability insurance with coverage, and in amounts reasonably acceptable to the other party to this Agreement, naming the other as an additional insured, and providing for thirty (30) days written notice to the other party of cancellation, termination or material modification. Each party shall provide evidence of this insurance upon request by the other party to this Agreement from time to time and shall provide a certificate of insurance upon the execution of this Agreement.

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10. Initial Term of Agreement: This Agreement shall become effective upon full execution by all Parties and shall have an initial term of ten (10) years unless terminated in accordance with Paragraph 12.

11. Automatic Renewal: This Agreement shall automatically renew for successive ten (10) year terms unless terminated for default pursuant to paragraph 12, unless either party provides written notice of non-renewal at least ninety (90) days in advance of the last day of the then current term, or unless terminated in accordance with Paragraph 12, or the Authority no longer continues to operate any POTW within the Town.

12. Termination: This Agreement may be terminated by either party for default of any of the provisions of this Agreement upon the terminating party providing written notice of default and termination at least ninety (90) days in advance of the effective date of the termination. Such notice shall be sent by certified mail to the other party and shall state with specificity the default that has prompted the termination.

13. Severability: Should any provision of this Agreement be deemed by a Court to be unenforceable as a matter of law, the remaining portions shall continue in full force and effect

14. Jurisdiction: This Agreement shall be interpreted and governed by the laws of the State of New York.

RESOLUTION #53.22

RESOLUTION TO APPOINT ACTING TOWN OF CONESUS ASSESSOR

On a motion of Councilwoman Fama and seconded by Councilman Sparks following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

WHEREAS, the Town of Conesus Assessor, Mr. Andrew Mohr, has resigned effective May 4, 2022; and

WHEREAS, the Town Assessor position is therefore vacant; and

WHEREAS, Mike Rados has expressed his intention to assist the Town of Conesus with assessment duties.

NOW, THEREFORE, BE IT, RESOLVED, that the Conesus Town Board hereby appoints Michael Rados as Acting Assessor for the Town of Conesus through December 31, 2022, at the rate of \$1,666.67 per month.

RESOLUTION #54.22

RESOLUTION TO APPOINT TOWN OF CONESUS ASSESSOR CLERK

On a motion of Councilwoman Martucio and seconded by Councilman Fama following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

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WHEREAS, The Town Assessor Clerk position is vacant; and
WHEREAS, The Town of Conesus is desirous of filling The Town Assessor Clerk position; and
WHEREAS, Tina Rados has expressed her intention to fill the Town Assessor Clerk position,
NOW, THEREFORE, BE IT RESOLVED, that the Conesus Town Board hereby appoints Tina Rados as Assessor Clerk
AND BE IT FURTHER RESOLVED that the position will pay \$285.71 per month; and
FURTHER RESOLVED that \$2000.00 be transferred from General Fund Budget Line A1355.1 Assessor to General Fund Budget Line A1355.1a Assessor Clerk to appropriately fund the position.

RESOLUTION #55.22

RESOLUTION TO ADOPT LOCAL LAW NO. 2 OF 2022 TO REVISE THE CONESUS TOWN CODE TO ADDRESS FENCES

On a motion of Councilwoman Martucio and seconded by Councilman Fama following resolution was

ADOPTED BY ROLL CALL VOTE

Supervisor Wester	Aye
Councilman Corrigan	Aye
Councilman Fama	Aye
Councilwoman Martucio	Aye
Councilman Sparks	Nay (<i>Because no problems have been reported re: fences he felt that this law is be an over-reach of government</i>)

WHEREAS, the Conesus Town Board has found that its current Code does not sufficiently address fencing and thus is in need of updating and revisions in order to address fencing; and

WHEREAS, the Conesus Town Board has before it a draft Local Law entitled “to Revise the Conesus Town Code to Address Fences,” said draft Local Law attached hereto and made a part hereof, which is and has been on file with the Town Clerk for review by the public; and

WHEREAS, the Conesus Town Board duly advertised, and then held a public hearing on the proposed Local Law on March 15, 2022 in order to solicit and consider public input on the same; and

WHEREAS, the Town Board has assessed this matter for purposes of SEQR, including by way of the attached Parts 1, 2 and 3 of the EAF.

NOW, THEREFORE, BE IT RESOLVED, that upon consideration of such Local Law and any comments thereon, the Town Board finds and determines it to be in the Town’s best interest to approve such Local Law, in that such Local Law will update and revise the Town Code in order to address fencing; and, be it further

RESOLVED, that the Town Board hereby finds that the approval of said Local Law will not have any significant adverse environmental impacts and, consistent with those findings on Part 2 and Part 3 of the EAF, which EAF is hereby approved, the Town Board hereby issues a negative declaration; and, be it further

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RESOLVED, that the Town Board hereby adopts and approves Local Law #2 of 2022 to Revise the Conesus Town Code to Address Fences, to be effective immediately; and, be it further

RESOLVED, that the Conesus Town Clerk be and hereby is directed to enter said Local Law into the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

LOCAL LAW NO. 2 OF 2022 TO REVISE THE CONESUS TOWN CODE TO ADDRESS FENCES

BE IT ENACTED, by the Town Board of the Town of Conesus, Livingston County, State of New York, as follows:

Section I. Authorization and Supersession

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. 2 of 2022 to Revise the Conesus Town Code to Address Fences. The purpose of this Local Law to implement regulations to address fences in Town.

Section III. Legislative Finding

The Town Board of the Town of Conesus finds and hereby determines that the Town Code should more comprehensively address fencing in Town, and, as such, the following regulations shall be adopted.

Section IV. Substantive Legislation

The following local legislation is hereby adopted and shall be codified at Section 155—37 of the Town of Conesus Code, which shall be established, shall be entitled “Fences,” and shall read as follows:

Section 155-37 Fences.

Fences (which are not considered structures for purposes of this Section) may be erected in any district, subject to the following provisions:

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A. Fence Permit Required; Application.

(1) No fence may be installed or constructed within the Town unless pursuant to a permit issued by the Code Enforcement Officer / Building Inspector, unless otherwise subject to an exemption.

(2) No permit for a fence shall be issued unless the proposed fence complies with the provisions contained in this Section.

(3) An application along with the specified fee for a fence permit shall be made to the Town Code Office on forms provided by the Town.

(4) Fence permit applications to erect a fence within any given required front, side, or rear yard shall be accompanied by a survey map reflecting the current extent of the property, the relevant setback requirements, and depicting the proposed location of said fence.

(5) Fence permit applications for lots with direct shoreline frontage in the Lake Shore District shall also depict the Mean High-Water Mark (the Mean High-Water Mark shall be defined in this Section as defined in the Town of Conesus Dock and Mooring Law).

(6) Fence Permit Exemptions. The following shall not require a Fence Permit:

a. Fences installed and/or constructed as part of an agricultural operation or use recognized by the Town.

b. Fences installed and/or constructed as required for a residential pool, which shall be addressed during the permitting process for pools.

c. Temporary fencing, which includes fencing that is intended to be temporary and which remains in place for less than six months out of the year.

d. Fences installed by the Town, including at public parks.

e. Special Use Fencing, as specifically addressed below, so long as the fencing is addressed during conditional use or special use permit review.

B. General requirements.

The following requirements shall apply to fences throughout all zoning districts in Town, unless otherwise stated:

(1) Fences shall have their finished / decorative side facing toward the adjacent properties. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.

(2) No fences shall be constructed, established or built-in excess of six feet in height, with the exception of fencing for tennis or similar recreation courts, which may be up to 12 feet in height.

(3) The height of all fences shall be measured from the average finished grade at the base of the fence.

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- (4) Fences six feet or lower in height are exempt from the setback requirements of the lot on which they are located. For fences greater than six feet in height (e.g., tennis or recreation courts), the setback requirements of the lot on which they are located shall apply. There shall be an additional one-foot setback for every 1-foot in height exceeding the first six feet.
- (5) No fence over four feet in height shall be constructed in the front yard of any lot, except for decorative posts on said fence, which may be no more than 12 inches in excess.
- (6) Fences incorporating barbed wire, electric current, or similar material or devices shall be allowed only when necessary for agricultural or public utility operations and, unless part of an agricultural operation, shall be subject to a minimum ten-foot setback.
- (7) Fences expressly designed with the intent to maim or injure prospective intruders are prohibited except as specifically authorized above.
- (8) Fences shall be properly maintained and shall not be permitted to fall into disrepair.
- (9) If a fence is to be located on a corner lot, the following provisions shall additionally apply: No solid fences over 24 inches in height shall be permitted in the triangular area formed by the intersecting street lines and a straight line joining the street lines at points which are 25 feet in distance from the point of intersection measured along the street lines. Measurement of height shall be from the grade of the abutting top of curb or from the crown of the abutting road, whatever is lower. Only split-rail fences, cyclone fences, chain-link fences or other similarly open fences are permitted in the triangular area, provided they do not otherwise create a traffic hazard or block visibility.
- (10) No fence shall be erected upon or otherwise encroach upon a public right-of-way. No fence shall be erected that will create a safety problem for people using the public right-of-way. Fences adjacent to driveways and roadways shall not obstruct the vision of operators of motor vehicles traveling on the same.
- (11) Unless otherwise specified, fence materials for fences or portions of fences may be fully opaque.
- (12) The Planning Board, as part of site plan review, may require a fence or other screening to shield adjacent residences or other uses from undesirable views, noise, or light.
- (13) Any legally existing fences pre-dating this law shall be protected as a pre-existing non-conforming use so long as they are not enlarged or expanded.

C. Lake Shore District. In addition to the fencing requirements above, all fences in the Lake Shore District shall also comply with the following:

- (1) Fences located between the Mean High-Water Mark and the rear building line of a principal structure (measured from a point inclusive of decks and porches), shall not exceed four feet in height, and shall be comprised of materials that are at least 60% transparent, as viewed from an angle of 90 degrees.

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(2) Fences located in side yards, forward of the rear building line (measured from a point inclusive of decks and porches), may have a height more than four feet but shall not exceed six feet in height.

(3) Fences may be constructed from wood, chain link, stone, rock, brick, masonry brick, wrought iron, vinyl, and aluminum. However, no fence shall be constructed from items not customarily used for fencing, such that the materials including but not limited to the following may not be used for fencing: plywood less than 5/8-inch thick, low-grade plywood, pallets, particle board, paper, foam board, plastic, tarps (and similar materials), razor wire or other dangerous materials, sheet metal, roll metal, corrugated metal, concrete block, or chains.

(4) Fences shall extend no closer to the water than 10 feet from the Mean High-Water Mark.

D. Special Use Fencing

Fencing for the following specific uses may vary from the provisions in this Section and shall not require a permit pursuant to this section. Instead, the fencing provisions for these specific uses shall be dictated by the Special Use Permit / Conditional Use Permit process, but these regulations may be considered as guidance during such permitting process:

1. Fences for Windmills and Energy Conversion Systems,
2. Fences for Wireless Service Facilities,
3. Fences for Junkyards,
4. Fences for Gravel Pits, and
5. Fences for Automotive Repair Facilities.

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Conesus which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

Section VII. Effective Date

This Local Law shall be effective immediately upon its approval.

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RESOLUTION #57.22

AUDIT OF HIGHWAY FUND CLAIMS

On a motion of Councilman Fama and seconded by Councilman Corrigan the following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

Resolved that Highway Fund Vouchers #72- #84 as set forth in Abstract No. 8 of 2022 in the amount of \$15,818.21 are approved.

RESOLUTION #58.22

AUDIT OF GENERAL FUND CLAIMS

On a motion of Councilman Sparks and seconded by Councilwoman Martucio the following resolution was

ADOPTED	Ayes	5	Wester, Corrigan, Fama, Martucio, Sparks
	Nays	0	

Resolved that General Fund Vouchers #138-#161 as set forth in Abstract No. 8 of 2022 in the amount of \$7,838.50 are approved.

With no further business, on a motion of Councilman Fama and seconded by Councilman Sparks, the meeting was adjourned at 9:20PM. Carried unanimously.

Respectfully submitted,

Annette M. McNinch

Annette M. McNinch
Town Clerk

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