

FIRST REGULAR SESSION

Johnstown, NY

January 9, 2017

Roll Call – Quorum Present

Supervisors: Argotsinger, Blackmon, Born, Bradt, Breh, Callery, Christopher, Fagan, Greene, Groff, Handy, Kinowski, Lauria, Morris, Potter, Rice, Waldron, Wilson, Young

TOTAL: Present: 19 Absent: 1 (Supervisor Howard)

Chairman Kinowski called the meeting to order at 1:00 p.m. Following the Pledge of Allegiance to the Flag, Chairman Kinowski asked if there was anyone from the public who wished to address the Board. There being no one present who wished to speak, Supervisor Kinowski asked for updates from Standing Committees and Reports of Special Committees.

UPDATES FROM STANDING COMMITTEES & REPORTS OF SPECIAL COMMITTEES

(No reports)

CHAIRMAN'S REPORT

Chairman Kinowski advised that he wanted to thank the local media for their coverage of the Organizational Meeting held last week.

Resolutions on the Regular Agenda were then deliberated upon.

NEW BUSINESS

Supervisor Lauria commented that a new president was just elected. He further commented that his father taught him to always respect the President. He contended that a school board member from Buffalo, Carl Paladino, should step down from the school board due to comments that he made about President Obama and First Lady Michelle Obama. Mr. Lauria stated that Paladino's comments were racist and send the wrong message to our youth in America.

Mr. Stead, Administrative Officer, reminded Board members that the winter NYSAC Conference is coming up on January 30 through February 1 in Albany. If Supervisors would like to attend, they can contact Teresa Perry to sign up.

Upon a motion by Supervisor Blackmon, seconded by Supervisor Callery and unanimously carried, the Board adjourned at 1:16 p.m.

Certified by:

*Jon R. Stead, Administrative Officer/
Clerk of the Board*

DATE

Resolution No. 6

Supervisor BRADT offered the following Resolution and moved its adoption:

**RESOLUTION REAPPOINTING AND/OR CONFIRMING
MEMBERS TO THE FULTON COUNTY PLANNING BOARD**

RESOLVED, That the following persons be reappointed and/or confirmed as members to the Fulton County Planning Board, for terms as hereinafter specified:

January 1, 2015 Through December 31, 2017:

Frederick Bochenek	Confirmed
Bill Simpson	Confirmed
Karen Smith	Confirmed

January 1, 2016 Through December 31, 2018:

Matthew Ginter	Confirmed
John Kessler	Appointed
Frank Malagisi	Confirmed
Frank Lauria – Alternate Member	Confirmed

January 1, 2017 Through December 31, 2019:

James Anderson	Re-appointed
Peter Goderie	Re-appointed
Jerry Moore	Appointed

and, be it further

RESOLVED, That all Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement, and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Board of Ethics, Fulton County Planning Board and Administrative Officer/Clerk of the Board.

Seconded by Supervisor POTTER and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 7

Supervisor WALDRON offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING AND/OR REAPPOINTING MEMBERS TO
THE FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY FOR 2017**

RESOLVED, That the following persons be appointed or reappointed as members to the Fulton County Industrial Development Agency for the year 2017:

William Sullivan
Joseph Gillis
Todd Rulison
Joseph Semione
Timothy Munn
Diana Putnam
David D'Amore

and, be it further

RESOLVED, That Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Industrial Development Agency, County Clerk, Board of Ethics and Administrative Officer/ Clerk of the Board.

Seconded by Supervisor BRADT and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 8

Supervisor WALDRON offered the following Resolution and moved its adoption:

**RESOLUTION REAPPOINTING AND/OR CONFIRMING MEMBERS TO
THE FISH AND WILDLIFE MANAGEMENT BOARD**

RESOLVED, That the following persons be and hereby are appointed, reappointed and/or confirmed as members to the Fish and Wildlife Management Board for terms as specified below:

January 1, 2017 through December 31, 2017:

Thomas Christopher	Supervisor Rep.	Re-appointed
Cynthia Breh	Supervisor Rep. (alternate)	Re-appointed

January 1, 2016 through December 31, 2017:

James Berry	Sportsman Representative	Confirmed
Darren A. Smith	Sportsman Rep. (alternate)	Confirmed

January 1, 2017 through December 31, 2018:

Richard Hart	Landowner Representative	Re-appointed
Vernon Duesler III	Landowner Rep. (alternate)	Re-appointed

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Fish and Wildlife Management Board, All Appointees and Administrative Officer/Clerk of the Board.

Seconded by Supervisor GROFF and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 9

Supervisor WALDRON offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING, REAPPOINTING AND/OR CONFIRMING MEMBERS
TO THE BOARD OF DIRECTORS FOR THE FULTON COUNTY
SOIL AND WATER CONSERVATION DISTRICT

RESOLVED, That the following persons be and they hereby are appointed, reappointed and/or confirmed as members of the Board of Directors of the Fulton County Soil and Water Conservation District, for terms as specified:

One-Year Term - January 1, 2017 Through December 31, 2017:

Warren Greene	Supervisor Representative
John Blackmon	Supervisor Representative

Three-Year Term - January 1, 2015 Through December 31, 2017:

Earl Hare	Grange Representative	Confirmed
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Three-Year Term - January 1, 2016 Through December 31, 2018:

Richard Hart	Director-At-Large	Confirmed
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Three-Year Term - January 1, 2017 Through December 31, 2019:

Jerry Moore	Farm Bureau Member	Re-appointed
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and, be it further

RESOLVED, That all Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement, and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Board of Ethics, Fulton County Soil and Water Conservation District and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 10

Supervisor WALDRON offered the following Resolution and moved its adoption:

**RESOLUTION REAPPOINTING AND/OR CONFIRMING MEMBERS
TO THE FULTON COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD**

WHEREAS, in accordance with NYS Agriculture and Markets Law, Section 302, the Board of Supervisors has the responsibility and authority to appoint an Agricultural and Farmland Protection Board to advise it related to establishment, modification, continuation or termination of agricultural districts and related to farming and farm resources within Fulton County; now, therefore be it

RESOLVED, That the following persons be and they hereby are reappointed or confirmed as members of the Fulton County Agricultural and Farmland Protection Board for terms as hereinafter specified:

January 1, 2015 – December 31, 2017

Lee Hollenbeck (Active Farmer)	Confirmed
Vacant	

January 1, 2016 – December 31, 2018

Richard Argotsinger (Active Farmer)	Confirmed
Jack Putman (Active Farmer)	Confirmed

January 1, 2017 – December 31, 2019

Jerry Moore (Active Farmer)	Re-appointed
Peter Goderie (Agribusiness Representative)	Re-appointed

and, be it further

Resolution No. 10 (Continued)

RESOLVED, That in accordance with provisions of said law, the following individuals shall also serve on said Agricultural and Farmland Protection Board for terms that are coterminous with their respective offices identified herein:

Coterminous:

Richard Hart (Chairperson, County Soil & Water Conservation District)	Confirmed
Gregory Fagan (Member, Local Legislative Body)	Confirmed
Vacant (County Cooperative Extension Agent)	
James Mraz (County Planning Director)	Confirmed
Peter Galarneau (County Director, Real Property Tax Services)	Confirmed

and, be it further

RESOLVED, That all Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement, and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Planning Director, All Appointees, Fulton County Board of Ethics and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BRADT and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 11

Supervisor WALDRON offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING AND/OR REAPPOINTING MEMBERS AND
ALTERNATE REPRESENTATIVES TO THE GREAT SACANDAGA LAKE
ADVISORY COUNCIL FOR 2017

RESOLVED, That the following individuals be and hereby are appointed to positions on the Great Sacandaga Lake Advisory Council, effective January 1, 2017 through December 31, 2017:

	<u>Members</u>	<u>Alternates</u>
Fulton County Representatives	William Waldron	Warren Greene
Town of Broadalbin	Thomas Christopher	Jennifer Gilston
Town of Mayfield	Jack Putman	Steve VanAllen
Town of Northampton	James Groff	William Gritsavage

and, be it further

RESOLVED, That the above appointees are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Ethics Board, Great Sacandaga Lake Advisory Council, All Appointees, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency which will further the purport of this Resolution.

Seconded by Supervisor BREH and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 12

Supervisor WALDRON offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/OR
CONFIRMING MEMBERS TO THE FULTON COUNTY CENTER
FOR REGIONAL GROWTH BOARD OF DIRECTORS**

WHEREAS, by an agreement with the Fulton County Center for Regional Growth (CRG), the Board of Supervisors is authorized to appoint three (3) members to the CRB Board of Directors; now, therefore be it

RESOLVED, That the following persons be and they hereby are appointed, reappointed, and/or confirmed as members of the Board of Directors of the Fulton County Center for Regional Growth, for terms as specified:

January 1, 2015 through December 31, 2017

Grant Preston

Confirmed

January 1, 2016 through December 31, 2018

Greg Fagan

Confirmed

January 1, 2017 Through December 31, 2019

Travis Mitchell

Re-appointed

and, be it further

RESOLVED, That all Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement, and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Board of Ethics, Fulton Center for Regional Growth, and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WILSON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 13

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/OR CONFIRMING MEMBERS
TO THE FULTON COUNTY OFFICE FOR THE AGING ADVISORY BOARD**

RESOLVED, That the following persons be and hereby are appointed, reappointed and/or confirmed as members of the Office for the Aging Advisory Board, for terms as hereinafter specified:

January 1, 2015 Through December 31, 2017:

Shirley Aguilera	City of Gloversville	Confirmed
Vacant	Town of Mayfield	Confirmed
Grace Bevington-Eglin	Council of Clubs/Ctrs.	Confirmed
Michael Kinowski	City of Johnstown	Confirmed
Vacant	Town of Bleecker	
Vacant	Town of Perth	
Vacant	Town of Northampton	

January 1, 2016 Through December 31, 2018:

Audrey Bowman	City of Gloversville	Confirmed
Ann Adore	City of Gloversville	Confirmed
William Pollak	City of Johnstown	Confirmed
Donna Chambers	Town of Broadalbin	Confirmed
Vacant	Town of Stratford	
Patricia Buell	General Member	Confirmed
Mary Ann Evans	Sacandaga Taskforce for Senior Living	Confirmed

January 1, 2017 Through December 31, 2019:

Leslie Beadle	NLH Nursing Home	Re-appointed
Michele Jones	Johnstown Sr. Center	Re-appointed
Vacant	Sr. Ctr. of Gloversville & Fulton Co., Inc.	
Vacant	Town of Oppenheim	
Sandy Lane	Town of Johnstown	Re-appointed
Vacant	Town of Caroga	

Resolution No. 13 (Continued)

and, be it further

RESOLVED, That Board members are not required to complete the Fulton County Board of Ethics' Financial Disclosure Statement but are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Office for the Aging, Office for the Aging Advisory Board and Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 14

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/OR CONFIRMING MEMBERS
TO THE FULTON COUNTY YOUTH BUREAU ADVISORY BOARD**

RESOLVED, That members of the Fulton County Youth Board for terms effective from and as of dates as specified be and hereby are appointed, reappointed or confirmed:

January 1, 2015 Through December 31, 2017:

Richard Handy	Board of Supervisors	Confirmed
Vacant	Town of Johnstown	
Vacant	Town of Stratford	
Vacant	City of Johnstown	
Vacant	City of Gloversville	
Vacant	Youth Representative	
Vacant	Youth Representative	
Gregory Young	General Member	Confirmed
Vacant	General Member	

January 1, 2016 Through December 31, 2018:

Yvonne Major	City of Johnstown	Confirmed
Vacant	Town of Oppenheim	
Ellen Anadio	City of Gloversville	Confirmed
Dorothy LaPorta	General Member	Confirmed
Denise Benton	General Member	Confirmed
Vacant	General Member	

January 1, 2017 Through December 31, 2019:

Vacant	Town of Bleecker	
Vacant	Town of Caroga	
Vacant	Town of Ephratah	
Carolyn Darkangelo	Town of Mayfield	Re-appointed
Vacant	Town of Perth	
Vacant	Town of Northampton	
Vacant	Town of Broadalbin	
Robin Wentworth	General Member	Re-appointed
Pamela Baran	General Member	Re-appointed

Resolution No. 14 (Continued)

and, be it further

RESOLVED, That Board members are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Youth Bureau, County Clerk and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 15

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING MEMBERS TO THE PUBLIC HEALTH
ADVISORY BOARD FOR 2017

RESOLVED, That the following are hereby reappointed to the Public Health Professional Advisory Committee for 2017 as hereinafter indicated:

Dr. Paul Perreault (Physician)
Thomas Fiorello (Pharmacist)
Don VanPatten (NYS Dept. Health District Office)
Anne Solar (Dept. of Social Services)
Tammy Merendo (Nathan Littauer Hospital)
Robert S. Warner, MS, RN (FMCC)
Kathie McClary (ART)
Irina Gelman (Public Health Director)
Marie Born (Consumer)

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Public Health Director and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WALDRON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 16

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING, REAPPOINTING AND/OR
CONFIRMING MEMBERS TO THE FULTON COUNTY
EMERGENCY MEDICAL SERVICES COUNCIL

WHEREAS, the Fulton County Emergency Medical Services Council is a local advisory board to the Board of Supervisors; and

WHEREAS, the operation of a local Emergency Medical Services advisory board is a key element in the coordination of community health care in Fulton County; and

WHEREAS, in consideration of the fact that the Fulton County Emergency Medical Services Council is conducting a process to revise its bylaws, the Public Health Director and Civil Defense Director/Fire Coordinator recommend that appointment of all alternate representatives to the Council be postponed; now, therefore be it

RESOLVED, That the following persons be appointed, reappointed and/or confirmed as members to the Fulton County Emergency Medical Services Council, for terms as hereinafter specified:

January 1, 2015 Through December 31, 2017:

Richard Giardino	F.C. Sheriff's Dept.	Confirmed
(Alternate: Brian Phillips, Undersheriff)		Confirmed
Dale Woods	F.C. Public Health	Confirmed
(Alternate: Irina Gelman)		Confirmed
Steven Santa Maria	F.C. Civil Defense	Confirmed
(Alternate: Vacant)		
Michael Putnam	Glov. Fire Dept.	Confirmed
(Alternate: Vacant)		
Roy Sweet	Consumer	Confirmed
(Alternate: Kuntree Sweet)		Confirmed
Scott DeNinno Jr.	Oppenheim Fire Dept.	Confirmed
(Alternate: Scott DeNinno Sr.)		Confirmed
Kristina Ruggeri	Ephratah Fire Dept.	Appointed
(Alternate: Vacant)		

Resolution No. 16 (Continued)

January 1, 2016 Through December 31, 2018:

Jennifer Elmendorf (Alternate: Vacant)	Nathan Littauer Hospital	Appointed
Margaret Luck	Traffic Safety Board	Confirmed
Lucas Paszkiewicz (Alternate: Adam Desrochers)	JAVAC	Confirmed Confirmed
Mark Souza	EMS Coordinator	Confirmed
Helen Mykel (Alternate: Karen Smith)	Consumer	Confirmed Confirmed
Mark VanAllen (Alternate: Tom Michaels)	Mayfield Fire Dept.	Confirmed Confirmed
Theresa Souza (Alternate: Rebecca Harling)	Rockwood/Garoga/Lassellsville Fire Dept.	Confirmed Confirmed

January 1, 2017 Through December 31, 2019:

Michael Tracy (Alternate: Kayla Milinyczuk)	F.C. Ambulance Service	Appointed Appointed
Aaron Phillips (Alternate: Sam Jackling)	Broadalbin Vol. Ambulance	Re-appointed Re-appointed
Jack Farquhar (Alternate: Steve Collins)	Northampton Amb. Svc.	Re-appointed Re-appointed
Frank Lauria (Alternate: Vacant)	Board of Supervisors	Re-appointed
Mark Fettinger (Alternate: Vacant)	Consumer	Re-appointed
Peter Watrobski (Alternate: Melissa Maynard)	Perth Fire Dept.	Re-appointed Re-appointed
Barbara DeLuca (Alternate: Vacant)	Caroga Fire Dept.	Appointed

and, be it further

RESOLVED, That Mark Souza be and hereby is appointed as the County EMS Coordinator for the year 2017; and, be it further

RESOLVED, That Jonathan VanAlstyne, be designated First Deputy EMS Coordinator, and Sean Wilson, Steve Collins and Scott Friedlander, be designated as Deputy EMS Coordinators for 2017, to serve as Coordinators in Mr. Souza's absence;

and, be it further

Resolution No. 16 (Continued)

RESOLVED, That Board members are not required to complete the Fulton County Board of Ethics' Financial Disclosure Statement but are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, EMS Council, County Clerk and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BLACKMON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 17

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/OR CONFIRMING
MEMBERS TO THE FULTON COUNTY COMMUNITY SERVICES BOARD**

RESOLVED, That the following persons be and hereby are appointed, reappointed and/or confirmed as members of the Fulton County Community Services Board, for terms as hereinafter specified:

January 1, 2014 Through December 31, 2017:

Ronald Kilmer	Confirmed
Connie Glover	Confirmed
Robin DeVito	Confirmed
Cynthia Licciardi	Confirmed

January 1, 2015 Through December 31, 2018:

Heather Clear-Rossbach	Confirmed
Brian Crankshaw	Appointed
Bethany Porter	Appointed

January 1, 2016 Through December 31, 2019:

Sheryda Cooper	Confirmed
Denise Frederick	Confirmed
Patrick Dowd	Confirmed
Vacant	

January 1, 2017 Through December 31, 2020:

Chad Brown	Appointed
Kathy Cromie	Re-appointed
Vacant	
Vacant	

and, be it further

Resolution No. 17 (Continued)

RESOLVED, That Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Community Services Board, County Clerk, Fulton County Board of Ethics and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BRADT and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 18

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING ADVERTISEMENT FOR BIDS FOR AN ADDITIONAL
ROUTE FOR CHILDREN WITH HANDICAPPING CONDITIONS TRANSPORTATION
PROGRAM (WHISPERING PINES)

RESOLVED, That the Purchasing Agent be and hereby is authorized and directed to advertise for sealed bids from contractors for the Children with Handicapping Conditions Transportation Program (and according to further specifications which may be obtained at the office of the Purchasing Agent, Supervisors' Chambers, Room 203, County Building, Johnstown, NY, 12095, during usual business hours); and, be it further

RESOLVED, That such sealed bids must be addressed to Jon R. Stead, Purchasing Agent, Supervisors' Chambers, Room 203, County Building, Johnstown, NY, 12095, and received by said Purchasing Agent no later than 2:00 p.m., Wednesday, January 25, 2017 at which time and place they will be publicly opened and read; and, be it further

RESOLVED, That the Board of Supervisors reserves the right to reject any or all bids; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Public Health Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WALDRON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 19

Supervisor CALLERY offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/ OR CONFIRMING MEMBERS TO
THE FULTON COUNTY ETHICS BOARD**

RESOLVED, That the following persons be and hereby are appointed or confirmed as members of the Fulton County Ethics Board for terms as specified below:

January 1, 2015 - December 31, 2018:

Francis Reed, Johnstown	Confirmed
Lisa Queeney	Confirmed
Shelley Yerdon	Confirmed

January 1, 2017 - December 31, 2020:

Jason Brott, F.C. Attorney	Re-appointed
George Manchester, Gloversville	Re-appointed

and, be it further

RESOLVED, That George Manchester be and hereby is appointed as Chairman of the Fulton County Ethics Board for a term beginning January 1, 2017 and ending December 31, 2017; and, be it further

RESOLVED, That Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Ethics Board and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HANDY and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 20

Supervisor FAGAN offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING MEMBERS TO THE ALTERNATIVES TO
INCARCERATION ADVISORY BOARD FOR 2017**

RESOLVED, That the following persons be appointed as members to the Alternatives to Incarceration Advisory Board for the year 2017:

Wayne McNeil	Town Justice
Gerard McAuliffe	Public Defender
Polly Hoyer	County Court Judge
Jon R. Stead	Admin. Officer/Clerk of the Board
Richard Giardino	Sheriff
Louise Sira	County Court Judge
Brian Crankshaw	Fulton Co. Correctional Facility
Ernest Gagnon	Director of Community Services
Brian Phillips	Fulton County Undersheriff
James Groff	Bd. of Supervisors Member
Cynthia Licciardi	Probation Director
Dawn Ackernecht	ATI Representative
Marie Oeser	Pre-Trial Release Director
Marie Born	Board of Supervisors
Amanda Nellis	Assistant District Attorney
Elaina Kelly	Crime Victims Advocate
John Armstrong	FMCC Criminal Justice Department
Paul Guidilli	Town Justice

and, be it further

RESOLVED, That Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Alternatives to Incarceration Advisory Board, County Clerk, Fulton County Board of Ethics and Administrative Officer/Clerk of the Board.

Seconded by Supervisor GREENE and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 21

Supervisor FAGAN offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING MEMBERS TO THE
FULTON COUNTY FIRE ADVISORY BOARD FOR 2017

RESOLVED, That the Fire Chiefs or Acting Fire Chiefs of those fire companies within Fulton County be and hereby are appointed as members of the Fulton County Fire Advisory Board for the year 2017; and, be it further

RESOLVED, That Board members are not required to complete the Fulton County Board of Ethics' Financial Disclosure Statement but are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fire Coordinator, Fire Advisory Board and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WILSON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 22

Supervisor FAGAN offered the following Resolution and moved its adoption:

RESOLUTION REAPPOINTING MEMBERS TO THE FULTON COUNTY
FIRE INVESTIGATION TEAM FOR 2017

RESOLVED, That the following members are hereby reappointed as members of the Fulton County Fire Investigation Team for the year 2017:

Michael Heberer	Johnstown Fire Department
Bruce Heberer	Johnstown Fire Department
Donald Biron	Johnstown Fire Department
John Duesler	Johnstown Fire Department
Robert Davis	Gloversville Fire Department
Ralph Palcovic	Caroga Lake Fire Department
Barbara DeLuca	Caroga Lake Fire Department
Jamie Rossi	Perth Fire Department
John Lesniewski	Perth Fire Department
Edward Pierce	Pleasant Square Fire Department
Scot Hall	Broadalbin Fire Department
Frank Berenger	Berkshire Fire Department
Michael Elmendorf	Meco Fire Department
Greg House	Meco Fire Department
Brian Novak	Captain, F.C. Sheriff's Department
Beth Whitman-Putnam	Gloversville Fire Department (Retired)
Steve Santa Maria	Fulton County Fire Coordinator
Timothy Berenger	Meco Fire Department

and, be it further

RESOLVED, That the members are not required to complete the Fulton County Board of Ethics Financial Disclosure statement but are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fire Coordinator, Fire Advisory Board, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor GROFF and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 23

Supervisor FAGAN offered the following Resolution and moved its adoption:

RESOLUTION REAPPOINTING DEPUTY FIRE COORDINATORS FOR 2017

RESOLVED, That the Deputy Fire Coordinator positions be and hereby are reappointed for a one-year term, beginning January 1, 2017, as follows:

Michael Elmendorf
Ralph Palcovic
Bruce Heberer
James Lewek
Frank Berenger
John Lesniewski
Marc Hallenbeck
Barbara DeLuca
Scott DeNinno

and, be it further

RESOLVED, That all appointed deputies be and hereby are directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

RESOLVED, That any training or mileage expenses for such deputies be charged against the Civil Defense/Fire Coordinator budget; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Civil Defense/Fire Coordinator, County Clerk, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WILSON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 24

Supervisor FAGAN offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING MEMBERS TO THE FULTON COUNTY
LOCAL EMERGENCY PLANNING COMMITTEE FOR 2017**

RESOLVED, That the following persons be and hereby are appointed as members of the Fulton County Local Emergency Planning Committee for a one-year term, commencing January 1, 2017 through December 31, 2017:

G. Michael Kinowski	Chm. Board of Supervisors (appointed)
James Tedisco	NYS Senator
Marc Butler	NYS Assembly
Donald VanPatten	NYS Department of Health
Shannon Finnegan	NYS Emergency Management Office
M. Spencer/K. Staniewski	NYS Dept. Of Environmental Conservation
Edward Pierce	KAPL
Steve SantaMaria	Civil Defense Director
Barbara DeLuca	Fire Coordinator's Office Representative
Richard Giardino	Sheriff's Department
Mark Souza	EMS Council
Dale Woods	Fulton County Public Health Department
Vacant	Johnstown/Gloversville Wastewater Treat. Fac.
Donald VanDeusen	Nathan Littauer Hospital
Thomas Roehl	WENT Radio Station
David Aimone	H-F-M BOCES
Jeffrey Hammons	Wal-Mart Distribution Center
Joel Wilson	City of Johnstown
Judith Gisondi	Citizen
Thomas Poquette	Benjamin Moore and Company
Vacant	
Vacant	
Vacant	

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Civil Defense Director/Fire Coordinator and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 25

Supervisor FAGAN offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING MEMBERS TO THE FULTON COUNTY
HAZARDOUS MATERIALS RESPONSE TEAM FOR 2017**

RESOLVED, That the following members are hereby appointed as members of the Fulton County Hazardous Materials Response Team for the year 2017:

David Rackmyer	Gloversville Fire Department
James Anderson	Gloversville Fire Department
Bruce Heberer	Johnstown Fire Department
Frank Berenger	Berkshire Fire Department
Robert Fancher	Berkshire Fire Department
Matt Hermance	Berkshire Fire Department
Robert Lindsay	Broadalbin Fire Department
Scot Hall	Broadalbin Fire Department
Charlie VanDeusen	Broadalbin Fire Department
William Robinson	Broadalbin Fire Department
Edward Pierce	Pleasant Square Fire Department
Brandon Rowback	Pleasant Square Fire Department
Nick DiGiacomo	Mayfield Fire Department
Ralph Palcovic	Caroga Lake Fire Department
Douglas Hulbert, Jr.	Sir William Johnson Fire Department
Sean Kurtz	Sir William Johnson Fire Department
Michael Elmendorf	Meco Fire Department
Jamie Rossi	Perth Fire Department
John Lesniewski	Perth Fire Department
Steven Santa Maria	Fulton County Fire Coordinator
Caela Havens	Mayfield Fire Department
Matt Swartz	New York State Police

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Civil Defense Director/Fire Coordinator, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor CHRISTOPHER and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 26

Supervisor GROFF offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING COUNTY REPRESENTATIVE TO THE
FULTON COUNTY JURY BOARD FOR 2017

WHEREAS, Section 503 of NYS Judiciary Law requires counties to establish a jury board, which shall meet at least once annually and at time as may be necessary to carry out the purposes of Article 18 of NYS Judiciary Law; and

WHEREAS, among others, said jury board membership must consist of a member of the county legislature; now, therefore be it

RESOLVED, That Supervisor Gregory Fagan be and hereby is appointed to the Fulton County Jury Board, effective January 1, 2017 through December 31, 2017; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Supreme Court Justice Richard Aulisi, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency who will further the purport of this Resolution.

Seconded by Supervisor BLACKMON and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 27

Supervisor FAGAN offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING, REAPPOINTING AND/OR CONFIRMING MEMBERS TO
THE FULTON COUNTY TRAFFIC SAFETY BOARD**

RESOLVED, That the following persons be appointed, reappointed or confirmed as members to the Fulton County Traffic Safety Board for terms as specified below:

January 1, 2015 Through December 31, 2017:

Mark Yost	Confirmed
Cynthia Licciardi	Confirmed
Allan Polmateer	Confirmed
Lt. David Gilbo (Johnstown Police Department)	Confirmed
Vacant	
Vacant	

January 1, 2016 Through December 31, 2018:

Anthony R. Reppenhagen	Confirmed
Matthew VanValkenburgh (FC Sheriff's Department)	Confirmed
Steven Santa Maria	Confirmed
Sherry Brown	Confirmed
Vacant	

January 1, 2017 Through December 31, 2019:

Denise Frederick	Re-appointed
Margaret Luck	Re-appointed
Kelly J. Collins	Re-appointed
Captain Marc Porter (Gloversville Police Dept.)	Re-appointed
Richard Giardino	Re-appointed
Marie Born	Re-appointed
Chad Brown	Re-appointed
Vacant	
Vacant	

and, be it further

RESOLVED, That Board members are required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk's Office; and, be it further

Resolution No. 27 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Board of Ethics, District Attorney, Traffic Safety Board and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HANDY and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 28

Supervisor GROFF offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING MEMBER TO THE FULTON COUNTY
LAW LIBRARY BOARD OF TRUSTEES FOR 2017

RESOLVED, That by this Resolution, the Fulton County Board of Supervisors hereby appoints Supervisor Gregory Fagan, 569 County Highway 106, Johnstown, NY, 12095, as Fulton County's representative to serve on the Board of Trustees for the County Law Library, effective January 1, 2017 through December 31, 2017; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Fourth Judicial District Administrative Judge, Gregory Fagan, Supreme Court Judge Richard Aulisi, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency which will further the purport of this Resolution.

Seconded by Supervisor BREH and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 29

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION APPOINTING JOSEPH DECRISTOFARO AS COUNTY
REPRESENTATIVE TO THE CAPITAL DISTRICT OFF-TRACK
BETTING CORPORATION BOARD OF DIRECTORS

RESOLVED, That Joseph DeCristofaro, of Johnstown, NY, be and hereby is reappointed to serve at the pleasure of the Board of Supervisors as Fulton County's representative to the Capital District Off-Track Betting Corporation Board of Directors, effective upon formal confirmation of the NYS Racing and Wagering Board through December 31, 2017; and, be it further

RESOLVED, That said appointee is required to complete the Fulton County Board of Ethics' Financial Disclosure Statement and sign the Fulton County Oath Book located in the County Clerk's Office; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Fulton County Ethics Board, Capital District Off-Track Betting Corporation, Joseph DeCristofaro and Administrative Officer/Clerk of the Board.

Seconded by Supervisor CALLERY and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

Resolution No. 30

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION SETTING DATE FOR A PUBLIC HEARING REGARDING “A LOCAL LAW TO ESTABLISH AN OCCUPANCY TAX IN FULTON COUNTY”

WHEREAS, there has been duly presented and introduced at a meeting of the Fulton County Board of Supervisors, held on January 9, 2017, a proposed local law entitled, “LOCAL LAW “A” OF 2017 “A LOCAL LAW TO ESTABLISH AN OCCUPANCY TAX IN FULTON COUNTY”; now, therefore be it

RESOLVED, That a public hearing shall be held for said proposed Local Law “A” of 2017 by the Fulton County Board of Supervisors, on February 13, 2017 at 1:30 p.m., in the Supervisors Chambers, County Office Building, Johnstown, NY, and at least seven days’ notice (excluding Sundays) of such public hearing be given by the Clerk of the Board by duly posting upon the bulletin boards in the Fulton County Office Building, Johnstown, NY, and by publication at least once in the official Fulton County newspaper; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Fulton Montgomery Regional Chamber of Commerce, County Attorney, and Administrative Officer/Clerk of the Board.

Seconded by Supervisor CALLERY and adopted by the following vote:

Ayes: 19 Nays: 0 Absent: 1 (Supervisor Howard)

**COUNTY OF FULTON
LOCAL LAW 1 OF 2017**

**A LOCAL LAW TO ENACT AN OCCUPANCY TAX AS AUTHORIZED BY ACT OF
THE NEW YORK STATE LEGISLATURE (CHAPTER 489 OF THE LAWS OF 2016)**

Be it enacted, by the Board of Supervisors of the County of Fulton, New York as follows:

Section 1. Title & Statement of Intent.

This local law shall be known as the “Fulton County Occupancy Tax Law”. The intent of this local law is to implement an occupancy tax as authorized by act of the New York State Legislature (Chapter 489 of the Laws of 2016). The revenues derived from said tax, after deducting up to 10 percent for administering the tax, shall be allocated for tourism development, economic development and other directly related and supporting activities.

Section 2. Authority.

The authority of this local law is Chapter 489 of the Laws of 2013 of New York State.

Section 3. Definitions.

When used in this local law, the following terms shall mean:

- (a) *County* – Fulton County, New York
- (b) *Effective Date* – The date set forth in Section 29 of this law.
- (c) *Hotel or Motel* – Any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as “bed and breakfast”, “inn”, “housekeeping cottages with four (4) or more units” and “tourist” facilities.
- (d) *Occupancy* - The use or possession, or the right to the use or possession, of any room in a hotel or motel. The right to the use or possession includes the right of a room remarketer as described in paragraph (n) of this section.
- (e) *Occupant* -A person who, for a charge or any consideration, uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right, license, agreement, or otherwise. The right to use or possess includes the right of a room remarketer as described in paragraph (n) of this section.
- (f) *Operator* - The owner of the hotel or motel room occupied or if the owner is not operating the hotel or motel and not being paid the rent or charge for the room occupied, then any other person entitled to be paid the rent or charge for the hotel or motel room occupied, including but not limited to the proprietor, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel. Such

term shall also include a room remarketer as such room remarketer shall be deemed to operate a hotel or motel, or portion thereof, thereby conferring the same rights and obligations of a hotel or motel operator on a room remarketer.

- (g) *Permanent Resident* - Any person occupying any room or rooms in a hotel or motel for at least thirty (30) consecutive days.
- (h) *Person* - An individual, partnership, society, association, joint stock company, corporation, limited liability company, general or limited liability partnership, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and/or any combination of the foregoing.
- (i) *Rent* - The charge and/or consideration received for occupancy, including any and all service or charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the operator, including a room remarketer, or another person on behalf of either of them.
- (j) *Return* - Any document filed or required to be filed as herein provided.
- (k) *Room* - Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for, rented or otherwise let out for the lodging of guests.
- (l) *Tax Imposition Date* - The date set forth in Section 4 of this local law.
- (m) *Treasurer* - The Fulton County Treasurer, or such other fiscal officer(s) as may be designated by the Board of Supervisors.
- (n) *Room remarketer* - A person who reserves, arranges for, conveys or furnishes occupancy, whether directly or indirectly, to an occupant for rent in an amount to be determined by the room remarketer, directly or indirectly, whether pursuant to written or other agreement, such person's ability or authority to reserve, arrange for, convey or furnish occupancy, whether directly or indirectly, and to determine the rent therefore, shall be "the rights of the room remarketer". A room remarketer is not a permanent resident with respect to a room for which such person has the rights of a room remarketer.

Section 4. Imposition of Tax.

- (a) On or after July 1, 2017, and in addition to any other tax previously authorized and imposed pursuant to Article 28 or 29 of the Tax law or any other law, there is imposed and there shall be paid a tax of four percent (4%) upon the rent for every occupancy of a room or rooms in a hotel or motel located within the County, except that such tax shall not be imposed upon (a) a permanent resident of a hotel or motel or (b) housekeeping cottages having less than four (4) rentable units.

- (b) When occupancy is provided, for a single consideration, with property, services, amusement charges or other items, the separate sale of which is not subject to tax under this local law, the entire consideration shall be treated as rent subject to tax under paragraph (a) of this section; provided, however, that where the amount of the rent for occupancy is stated separately from the price of such property, services, amusement charges or other items, on any sales slip, invoice, receipt, or other statement given to the occupant, and such rent is reasonable in relation to the value of such property, services, amusement charges or other items, only such separately stated rent will be subject to tax under paragraph (a) of this section.
- (c) (1) In regards to the collection of tax on occupancies by room remarketer, when occupancy is provided for a single consideration with property, services, amusement charges or any other items, whether or not such items are taxable, the rent portion of the consideration for such transaction shall be computed as follows: either the total consideration received by the room remarketer multiplied by a fraction, the numerator of which shall be the consideration payable for the occupancy by the room remarketer and the denominator of which shall be such consideration payable for the occupancy, plus the consideration payable by the remarketer for the other items being sold, or by any other method as may be authorized by the Commissioner of the New York State Department of Taxation and Finance for the tax imposed by subdivision (c) of section eleven hundred five of the Tax Law of the State of New York, or by any other method as may be authorized by the County Treasurer. If the room remarketer fails to separately state the tax on the rent so computed on a sales slip, invoice, receipt or other statement given to the occupant in the manner prescribed in subparagraph (2) of this paragraph or fails to maintain records of all prices of all components of a transaction covered by this paragraph, the entire consideration shall be treated as rent subject to tax under Section 4(a) of this local law. Nothing herein shall be construed to subject to tax or exempt from tax any service or property or amusement charge or other items otherwise subject to tax or exempt from tax pursuant to Articles 28 or 29 of the New York State Tax Law. A room remarketer's records of the consideration payable for all components of a transaction covered by this paragraph are the records required to be maintained by Section 10 of this local law.
- (c) (2) In regard to the collection of tax on occupancies by room remarketers, including a transaction described in subparagraph (1) of this paragraph, the requirements of paragraph (b) of this section shall be deemed satisfied if the remarketer gives the customer a sales slip, invoice receipt, or other statement of the price prior to the customer's completion of his or her occupancy, on which the amount of tax due under this local law is stated. The room remarketer must keep a copy of this invoice as required by Section 10 of this local law, or electronic records that accurately reflect the information that is on the invoice provided to the customer.

- (c) (3) In regards to the reporting and payment to the County Treasurer by room remarketers of tax due on occupancies, a room remarketer shall report such tax due, including transaction(s) described in subparagraph (1) of this paragraph, on the return due date for the filing period in which the occupancy ends, and at the time of filing such return to pay to the County Treasurer the total amount due.

Section 5. Transitional Provisions.

The tax imposed by this local law shall be paid upon any occupancy on and after the date set forth in Section 4 hereof, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid weekly or other term basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on and after the date set form in Section 4 hereof.

Section 6. Exempt Organizations.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law:

- (a) The State of New York, any public corporation (including those created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the State;
- (b) The United States of America, insofar as it is immune from taxation; and
- (c) Any corporation or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

Section 7. Territorial Limitations.

The tax imposed by this local law shall apply only within the territorial limits of Fulton County.

Section 8. Registration.

- (a) Within twenty (20) days after the effective date of this local law, or in the case of an operator commencing business after such effective date with three (3) days after such commencement or opening, every operator shall file with the Treasurer a registration application in a form prescribed by the Treasurer.
- (b) The Treasurer shall, within five (5) days after receipt of a registration application, issue without charge to the operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof, for each additional hotel or motel of such operators.
- (c) Each certificate shall state the hotel or motel or room remarketer for which it is applicable.
- (d) Each certificate of authority shall be prominently displayed by the operators who are not room remarketers in such manner that it may be seen and brought to the notice of all occupants and persons seeking occupancy.
- (e) Certificates shall not be assignable or transferable, and shall be surrendered immediately to the Treasurer upon the cessation of business at, or upon the sale or conveyance of the operator's business named in such certificate(s).

Section 9. Administration and Collection.

- (a) The tax imposed by this local law shall be administered and collected by the Treasurer, or such other employees of the County as the Treasurer may designate, by such means and in such manner as other taxes which are now collected and administered or as is otherwise provided by this local law.
- (b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and payment of the tax.
- (c) The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant as if the tax were part of the rent for the occupancy payable at the time such rent shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

- (d) The Treasurer may, whenever he deems it necessary for the proper enforcement of this local law, provide by order that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed and payment made by the operator.
- (e) The tax imposed by this local law shall be paid upon any occupancy on and after the tax imposition date, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date; and where rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the tax imposition date.
- (f) Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may by order provide for credit and/or refund of the amount of such tax upon application therefore as provided in Section 14 of this local law.
- (g) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where, by the directive pursuant to subdivision (d) of this section, an occupant is required to file returns and pay directly to the Treasurer the tax imposed, the burden of proving that a rent for occupancy if not taxable, shall be upon the occupant.
- (h) Where an occupant claims exemption(s) from the tax under the provisions of Section 6 of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption.
- (1) a copy of a certificate issued by the Treasurer certifying that the organization named therein is exempt from the tax pursuant to Section 6 of this local law, together with a certificate duly executed by the exempt organization setting forth the occupant's name and certifying that
- i. the occupant is a duly authorized agent, representative or employee of the exempt organization,
 - ii. the occupant's occupancy is paid or to be paid by such exempt organization, and
 - iii. the occupant's occupancy is necessary or required in the course and furtherance of, and/or in connection with, the affairs of said exempt organization; or
- (2) a properly completed, executed and certified Exemption Certificate from taxes imposed pursuant to Articles 28 and 29 of the New York State Tax Law, such certificate to be in the form and to contain the content approved and required by the New York State Department of Taxation.

Section 10. Records to be Kept

- (a) Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer may by regulation or order require.
- (b) All records shall be available for inspection and examination at any time upon demand by the Treasurer, or the Treasurer's duly authorized agent or employee, and shall be preserved for a period of not less than three (3) years, except that the Treasurer may consent in writing to their destruction within that period or may in writing require that such records be kept and maintained for a specified period in excess of three (3) years.

Section 11. Returns.

- (a) After the date set forth in Section 4 of this local law, and except as provided in subdivision (b) of this section, every operator and occupant, directed by the Treasurer, shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon, for the same quarterly periods and on the same dates as returns for New York State Sales and Use Taxes are filed or to be filed.
- (b) Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may by order require returns to be made and filed for shorter periods than those prescribed pursuant to subdivision (a) of this section, on such dates as the Treasurer may specify in such rule or order, where the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law.
- (c) All returns shall be filed with the Treasurer within twenty (20) days from the expiration of the period covered thereby as shown in the example below:

<u>Tax Period</u>	<u>Due Date</u>
January 1 through March 31	April 20
April 1 through June 30	July 20
July 1 through September 30	October 20
October 1 through December 31	January 20

- (d) The forms of returns shall be prescribed by the Treasurer and shall contain such information as the Treasurer may deem necessary for the proper administration of this local law.
- (e) The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.
- (f) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient on its face or otherwise, the Treasurer shall take the necessary steps to enforce the filing of a properly completed and sufficient return or of a corrected return.

Section 12. Payment of Tax.

- (a) Any tax imposed by this local law shall be paid by the occupant to the operator of the hotel or motel room occupied for and on account of the County, and such operator or person entitled to be paid the rent or charge shall be liable for the collection and payment of tax to the County.
- (b) The operator of the hotel or motel room shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge. In any action or proceeding brought by an owner or a person entitled to be paid the rent or charge for the purpose of collecting the rent or charge, or the tax imposed by this local law, the Treasurer shall be joined as a party.
- (c) At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this local law.
- (d) All taxes and other moneys required to be paid under and pursuant to this local law shall be due from the operator and paid to the Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon.
- (e) Notwithstanding paragraphs (a) and (b) of this section, the occupant shall pay the tax imposed by this local law directly to the Treasurer if so ordered by the Treasurer, in which case the operator shall be relieved of the responsibility and no right to collect the same until so authorized by the Treasurer
- (f) Operator Collection Credit:
 - (1) A credit in the amount of five percent (5%) of all tax collected, up to \$200.00 per quarter will be allowed.
 - (2) For Operators with hotels or motels in business on the effective date of this local law, an additional "Start-up Credit" of five percent (5%) of all tax collected, up to \$200.00 per quarter will be allowed. Said "Start-up Credit" shall only be allowed during the first 12 months immediately following the effective date of this local law.

Section 13. Bonds & Security for Payment of Tax.

- (a) Where the Treasurer, in the exercise of the Treasurer's discretion, deems it necessary to protect revenues to be obtained under this local law, the Treasurer may by rule or order require any operator required to collect the tax imposed by this local law to file with the Treasurer a bond to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.

- (b) Any bond so required by the Treasurer shall be issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix.
- (c) In the event the Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required.
- (d) The operator shall file such bond within five (5) days after the issuance of such notice, unless within such five (5) days the operator shall serve upon and deliver to the Treasurer a written request for a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Any determination by the Treasurer upon such hearing shall be final and shall be complied with by the operator within five (5) days after the giving of notices thereof.
- (e) In lieu of a bond the Treasurer, in the Treasurer's sole discretion, may accept or require
 - (1) securities approved by the Treasurer in such amount as the Treasurer may prescribe, with such securities to be kept in the custody of the Treasurer, and/or
 - (2) cash in such amount as the Treasurer may prescribe, with such cash to be deposited and kept in the custody of the Treasurer.
- (f) The Treasurer shall have the right at any time without notice to the operator to apply all or any portion of the bond(s), securities and/or cash to the payment of any tax and/or interest or penalties due, and for such purpose the Treasurer may exercise all rights under the bond(s) and/or may sell the securities at public or private sale without notice to the depositors thereof.

Section 14. Determination of Tax.

- (a) Upon the filing of a return, the Treasurer shall determine the amount of tax due under and pursuant to this local law.
- (b) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient as to the amount of tax due, the amount of tax due under and pursuant to this local law shall be determined by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors.
- (c) Notice of a determination under subdivision (b) of this section shall be furnished in writing to the affected operator or occupant (if the occupant has been directed to pay the occupancy to the Treasurer).

- (d) Any determination by the Treasurer under subdivision (b) of this section shall finally and irrevocably fix the tax, unless
- (1) within thirty (30) days after the issuance of the notice of such determination the operator or person against whom it is assessed shall apply in writing to the Treasurer for a hearing, or
 - (2) the Treasurer shall, in the Treasurer's sole discretion, reconsider and re-determine the amount of tax due.
- (e) Within fifteen (15) days after the conclusion of a hearing conducted pursuant to subdivision (d) (1) of this section, the Treasurer shall give written notice of the Treasurer's determination to the person against whom the tax is assessed.
- (f) Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of the filing of a return; provided, however, that where no return has been filed as provided by this local law the tax may be assessed at any time.

Section 15. Refunds.

- (a) In the manner provided in this section the Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid provided that written application for such refund shall be made to the Treasurer within one year from the payment thereof. Such application shall be in a form as the County Treasurer may prescribe. (Subject to the conditions and limitations provided in this section, a room remarketer shall be allowed a refund or credit against the amount of tax collected and required to be remitted under Section 4. of this local law in the amount of the tax it had previously paid to an operator or a hotel. Provided, however, that in order to qualify for a refund or credit under this section for any occupancy tax quarterly period, the room remarketer must, for that quarter, (A) be registered for occupancy tax purposes under Section 8 of this local law; (b) collect the taxes imposed by Section 4 of this local law; and furnish the certificate of authority number to the operator to whom the applicant paid the tax in its application for refund or credit if required on that form or upon request. Provided, however, that if the room remarketer requests the operator's certificate of authority number and is not provided with that number, the room remarketer may satisfy this requirement by providing the operator's name, business address, telephone number, and the address of the hotel where the occupancy took place. An application for a refund or credit under this paragraph must be filed with the County Treasurer within the time provided by subparagraph (a)(1) of this section. Where an application for credit has been properly filed, the applicant may immediately take the credit on the return due coincident with or immediately subsequent to the time the applicant files the application for credit. However, the taking of the credit on the return is deemed to be part of the application for credit. The procedure for granting or denying the application for a credit or refund and review of these determinations shall be as provided in this section. An operator, including a room remarketer, who is paid tax by a room remarketer must upon request provide the other room remarketer with its certificate of authority number, provided that the

operator's failure to do so does not change the requirement set forth in paragraph (c) herein.)

- (b) An application for refund or credit may be made only by the occupant, operator, or other person who has actually paid the tax.
- (c) An application for a refund or credit made as herein provided shall not be complete unless the same includes copies of all documentation and evidence upon which the applicant relies in support thereof, but nothing shall prohibit or prevent the Treasurer from receiving any other evidence with respect thereto.
- (d) No application for a refund or credit shall be accepted or considered unless such application has been actually received by the Treasurer within one (1) year of the payment of the tax.
- (e) The determination to deny or allow a refund or credit shall be made by the Treasurer in writing, stating the reason(s) therefore, and the Treasurer shall give notice of such determination to the applicant.
- (f) No refund shall be made to an operator who has collected and paid over such tax to the Treasurer unless and until such operator shall first establish, to the satisfaction of the Treasurer under such regulations as the Treasurer may prescribe, that such operator has repaid to the occupant(s) the amount of tax for which a refund is sought.
- (g) The Treasurer may, in the Treasurer's discretion and in lieu of the payment of any refund determined to be due, allow credit therefore on and against payments due from the applicant.

Section 16. Disposition of Revenues.

All revenues resulting from the imposition of the tax under this local law shall be paid into the Treasury of the County of Fulton and shall be credited to and deposited in the general fund of the County, thereafter to be allocated only for tourism development, economic development and other directly related and supporting activities, however, that a portion of such revenue may be specifically allocated to the expense of the County in administering such tax. The revenues derived from such tax, after deducting the amount provided for administering such tax, shall be allocated to enhance the general economy of the County of Fulton, and its city, towns and villages through the promotion of tourist activities, conventions, trade shows, special events and other directly-related and supported activities. The amount retained by Fulton County with respect to administering said tax shall not exceed ten percent (10%) of the revenues collected from the imposition of this tax.

Section 17. Reserves.

Whenever the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to such occupant or operator on such application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

Section 18. Remedies Exclusive.

The remedies provided by Sections 14 and 15 of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under Article 78 of the Civil Practice Law and Rules pursuant to Section 24 of this local law.

Section 19. Proceedings to Recover Tax.

- (a) Whenever any operator or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as herein provided, or whenever any occupant shall fail to pay any such tax, penalty or interest, the County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of Fulton County in any court of the State of New York or of any other state or of the United States.
- (b) Notwithstanding any other provision of this section, if the Treasurer in his discretion believes that any such operator, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, the Treasurer may declare such tax or penalty to be immediately due and payable and may issue a warrant, as provided in this section, immediately.
- (c) As an additional or alternate remedy, the Treasurer may issue a warrant, directed to the Fulton County Sheriff or to the sheriff of any other county commanding him to levy upon and sell the real and personal property of the operator, occupant or other person, including but not limited to any partner, corporate officer/director/shareholder, or member, liable for the tax, which may be found within his county for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Treasurer and to pay to the Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of such warrant.
- (d) The Sheriff receiving a warrant issued under this section shall, within five (5) days after receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed.

- (e) Upon filing a copy of the warrant as provided in paragraph (d) of this section,
1. the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued, provided that such lien shall not apply to personal property unless another copy of such warrant is filed in the New York State Department of State;
 2. the Sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to
 3. the Treasurer shall have the same remedies to enforce the amount due thereunder as if the County had recovered judgment therefore.
- (f) If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as provided in this section.
- (g) Whenever an operator or other person shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or motel or of such operator's business assets, other than in the ordinary course of business, the following provisions shall apply:
- (1) the purchaser, transferee or assignee shall at least twenty (20) days before taking possession of the subject of said sale, transfer or assignment, or paying therefore, notify the Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof and whether or not the operator has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing;
 - (2) for failure to comply with the provisions of this paragraph, including but not limited to subdivision (1) above, the purchaser, transferee or assignee shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the operator, seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law;
 - (3) whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by subdivision (1) of this paragraph, or whenever the Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the operator, seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to

the operator, seller, transferor or assignor, and shall withhold any such sums of money, property or chooses in action, or other consideration, to the extent of the amount of the County's claim;

- (4) within fifteen (15) days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, the Treasurer shall give notice to the purchaser, transferee or assignee and to the operator, seller, transferor or assignor, of the total amount of any tax or taxes, as well as of any penalties or interest due thereon, which the Treasurer claims to be due from the operator, seller, transferor or assignor, to the County;
- (5) whenever the Treasurer shall fail to give the notice required by subdivision (4) of this paragraph, within fifteen (15) days from receipt of notice of the sale, transfer and assignment required by subdivision (1) of this paragraph, such failure shall release the purchaser, transferee or assignee from any further obligation to withhold any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor;
- (6) upon receipt of the Treasurer's notice issued pursuant to subdivision (4) above stating the total amount of the County's claim, the purchaser, transferee or assignee may make payment of such claim to the Treasurer from any sums of money, property, or chooses in action withheld in accord with the provisions of subdivision (3) of this paragraph, and upon making such payment the purchaser, transferee or assignee shall be relieved of all liability for such amounts to the operator, seller, transferor or assignor, and such amounts paid to the Treasurer shall be deemed satisfaction of the tax liability of the operator, seller, transferor or assignee to the extent of the amount of such payment.

(h) Whenever the liability of any operator or other person, including that of any purchaser, transferee or assignee, covered by this section has been wholly paid or satisfied or no longer exists, except where the liability is discharged by an order or decree in bankruptcy, the Treasurer shall

- (1) mail to such operator or other person a notice, addressed to the last known address of such operator or other person, setting forth
 - (i) the amount of the tax liability paid or satisfied,
 - (ii) that such liability has been wholly paid or satisfied or no longer exists, and
 - (iii) a statement to the effect that consumer reporting agencies must delete from a credit file any reference to the particular tax lien or claim within thirty (30) days of receipt from such operator or other person of a copy of such notice.

Section 20. General Powers of the Treasurer.

In addition to the powers granted to the Treasurer by County Law and this local law, the Treasurer is hereby authorized and empowered:

- (a) To make, adopt and amend rules and regulations, and to issue orders, appropriate to the carrying out of this local law and the purposes thereof;
- (b) To extend for cause shown the time of filing any return for a period not exceeding 30 days; and for cause shown, to remit or waive penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
- (c) To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or such Treasury Department relative to any person, any other provision of this local law to the contrary notwithstanding;
- (d) To delegate his functions hereunder to any employee or employees of the County Treasurer;
- (e) To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;
- (f) To require any operator within the county to keep detailed records of the nature and type of hotel or motel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this local law, and to furnish such information upon request to the County Treasurer;
- (g) To assess, determine, revise and readjust the taxes imposed under this local law.

Section 21. Administration of Oaths and Compelling Testimony.

- (a) The Treasurer, or the Treasurer's duly designated and authorized employee(s) or agent(s), shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the Treasurer's powers and duties under this local law.
- (b) The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law, and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the Treasurer or excused from attendance.

- (c) A justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this local law.
- (d) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than one (1) year, or both such fine and imprisonment.
- (e) The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided.
- (f) The County Sheriff, the Sheriff's duly appointed deputies, and any officer or employee of the Treasurer designated to serve process under this local law, are hereby authorized and empowered to serve any summons, subpoena, order, notice, document, instrument, or other process to enforce or carry out this local law.

Section 22. Reference to Tax.

Wherever reference is made in placards or advertisements or in any other publications to this tax such reference shall be substantially in the following form: "Tax on occupancy of hotel or motel rooms"; except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the word "tax" will suffice.

Section 23. Penalties, Interest & Violations.

- (a) Any person failing to file a return or to pay or pay over any tax to the Treasurer within the time required by this local law shall be subject to
 - (1) a penalty of five percent (5%) of the amount of tax due; plus
 - (2) interest at the rate of one percent (1%) of the amount of tax due for each month of delay, except that no interest shall be charged for the first thirty (30) days immediately after the date such return was required to be filed or such tax became due.
- (b) Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may, if satisfied that the delay was excusable, cancel and remit all or part of such penalty, but may not cancel or remit any portion of the interest.
- (c) All penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law.
- (d) Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

- (e) Officers and/or members of an owner or operator corporation, limited liability company, limited liability partnership, or partnership shall be personally liable for the tax collected or required to be collected and paid by such corporation under this local law, and shall also be personally liable for the penalties and interest herein imposed.

- (f) In addition to the penalties herein or elsewhere prescribed, any person found to have committed any of the following acts shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than one (1) year, or both such fine and imprisonment:
 - (1) failing to file a return required by this local law;
 - (2) filing or causing to be filed, or making or causing to be made, or giving or causing to be given, any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is willfully false;
 - (3) willfully failing to file a bond required to be filed pursuant to this local law;
 - (4) failing to file a registration certificate and such data in connection therewith as the Treasurer may by order, regulation or otherwise require;
 - (5) failing to display, or to surrender upon demand of the Treasurer, the certificate of authority as required by this local law;
 - (6) assigning or transferring such a certificate of authority;
 - (7) willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator;
 - (8) willfully failing or refusing to collect any tax imposed by this local law from the occupant;
 - (9) referring or causing reference to be made to this tax in a form or manner other than that required by this local law; or
 - (10) failing to keep or maintain the records required by this local law.

- (g) The certificate of the County Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

Section 24. Judicial Review.

- (a) Any final determination of the amount of any tax payable pursuant to this local law, as well as any final determination on an application for refund or credit under section 15 of this local law, shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty (30) days after the giving of the notice of such final determination, provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

- (1) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
 - (2) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.
- (b) Where any tax imposed pursuant to this section shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

Section 25. Returns to be Kept Confidential.

- (a) Except in accordance with proper judicial order, or as otherwise provided by law,
- (1) it shall be unlawful for the Treasurer or any agent, employee or designee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of an operator contained in any return required under this local law; and
 - (2) the officers charged with the custody of such returns shall not be required to produce any of such returns or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, provided that in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

- (b) Notwithstanding the provisions of paragraph (a) of this section, nothing herein shall be construed to prohibit
- (1) the delivery to a taxpayer or such taxpayer's duly authorized representative of a copy of any return filed in connection with this local law; or
 - (2) the publication of statistics so classified as to prevent the identification of particular returns and items thereof, or
 - (3) the inspection by the county attorney or other legal representatives of the county, or by the district attorney of any county, of the return(s) of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty.
- (c) Returns shall be preserved by the Treasurer for not less than three (3) years or for such longer period of time as the Treasurer determines.
- (d) Any violation of paragraph (a) of this section shall be punishable by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the county such officer or employee shall be disciplined in accordance with the Civil Service Law and/or any applicable collective bargaining agreements.

Section 26. Notices and Limitations of Time.

- (a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed pursuant to the provisions of this local law, or in any application made by such person, or if no return has been filed or application made then to such address as may be obtainable.
- (b) The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed.
- (c) Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such notice.
- (d) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the county to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this local law.

Section 27. Effect of Local Law.

This local law shall remain in full force and effect for a period of three (3) years from the date of enactment by the Board of Supervisors; except that nothing shall prohibit or prevent the adoption and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this or any other local law adopted and enacted pursuant to the provisions of Chapter 489 of the Laws of 2016.

Section 28. Separability.

If any provision of this local law or the application thereof to any person or circumstance shall be held invalid, the remainder of this local law and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 29. Effective Date.

This local law shall take effect upon filing with the Secretary of State of New York.