



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

TOWN BOARD LEGISLATIVE AGENDA

Wednesday, August 7, 2024 6:30PM

Supervisor Jeff Leenhouts, presiding

- I. Call to Order - Pledge of Allegiance - Roll Call
- II. Communications and Announcements
- III. Public Hearing: To Consider a Proposed Local Law to Amend Penfield Town Code Sections 250-6.1, 250-2.2 and Chapter 250 Article VII to Modify the Town's Environmental Protection Overlay District (EPOD Regulations, Terms Defined and Commercial Timber Harvesting
- IV. Public Participation
- V. Additions and Deletions to Agenda
- VI. Approval of Minutes -July 3, 2024
- VII. Petitions
- VIII. Resolutions by Function

Law and Finance

- 24T-128 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence within a Storm Sewer Easement at 19 Green Pine Lane
- 24T-129 Authorizing Use of State and Local Fiscal Recovery Funds (SLFRF) Under the American Rescue Plan Act (ARPA) for Paving Penfield Community Center
- 24T-130 Authorize the Supervisor to Sign an Intermunicipal Agreement with Monroe County for the Purchase of Fuel
- 24T-131 Budget Transfers for the General Fund
- 24T-132 State Environmental Quality Review Act (SEQRA) Review and Determination Associated with the Local Law to Amend Town Code Sections 250-5.10 (Four Corners District), Section 250.6-2. (Historic Overlay Districts) and Related Town Code Sections
- 24T-133 Adopt a Local Law to Amend Town Code Sections 250-5.10 (Four Corners District) 250.6.2 (Historic Overlay Districts) and Related Town Code Sections
- 24T-134 Acceptance of Monroe County Sidewalk Grant Award

Public Works

- 24T-135 Authorization for Supervisor to Sign a contract with Day Automation for Door Access Control Equipment for the New DPW Garage Facility
- 24T-136 Authorization for Supervisor to Sign a Contract with Day Automation for HVAC Control Equipment for the New DPW Garage Facility
- 24T-137 Appointment to Historic Preservation Board
- 24T-138 Appointments to the Energy & Environmental Conservation Committee (EECC)
- 24T-139 Authorizing the Penfield Town Supervisor to Enter into an Inter-municipal Agreement (IMA) with Penfield Central School District for the Use of District-Owned Property for Town of Penfield Temporary Brush Drop-off at 2660 Penfield Road

Public Safety - None

Community Services -None

TOWN BOARD LEGISLATIVE AGENDA

- IX. Old Business: Resolution # 24T-126 Authorizing the Supervisor to Enter into an Inter-municipal Agreement with Penfield School District for the Use of District Owned Property for Temporary Brush Drop-off at 2660 Penfield Road
- X. New Business
- XI. Executive Session
- XII. Next Meeting: September 4, 2024
- XIII. Adjournment

*This meeting will be video recorded and broadcast LIVE via the town's website www.penfield.org and the Town's Government Access Cable Channel 1303.
Questions regarding video coverage contact Penfield TV at (585) 340-8661.*

PENFIELD TOWN BOARD RESOLUTION NO. 24T-128

DATE: 08/07/2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Fence Within a Storm Sewer Easement at 19 Green Pine Lane – SBL#094.01-1-38.26

BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Joan Woody, owner of property of 19 Green Pine Lane, to permit a portion of a fence to encroach into the drainage easement to the Town of Penfield located at 19 Green Pine Lane in a form and substance acceptable to the Town Attorney.

Moved: _____

Seconded: _____

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-129

DATE: August 7, 2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: **Authorizing Use of State and Local Fiscal Recovery Funds (SLFRF) Under the American Rescue Plan Act (ARPA) for Paving Penfield Community Center**

WHEREAS, the Town of Penfield received a total of \$3,825,732.08 under the American Rescue Plan Act Local Fiscal Recovery Funds, and

WHEREAS, the Town accepts the terms and conditions for expending and reporting the use of said federal funds, and

WHEREAS, the Town Board spent several months reviewing types of projects eligible under this program and sought the advice and counsel of the Town Attorney and third party auditor,

NOW THEREFORE BE IT RESOLVED, the Town Board is authorizing \$202,544.22 from the Town’s ARPA funds, A00-9950-0009-9009, to pave the parking lot of the Penfield Community Center.

BE IT RESOLVED that the following 2024 budget amendments be approved:

Appropriations	Amount
A00-1620-0003-3009	\$202,544.22

AND BE IT FURTHER RESOLVED, this project will be completed in accordance with the Town’s procurement policies and all applicable federal and state regulations and guidelines.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-130 DATE: August 7, 2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

Name: Authorize the Supervisor to sign an Intermunicipal Agreement with Monroe County for the Purchase of Fuel

WHEREAS, the Monroe County Sheriff's Office would like to continue obtaining fuel from the Town's DPW facility, and

WHEREAS, the Town will be reimbursed monthly for this fuel along with an administrative fee, per the mutually accepted agreement,

BE IT RESOLVED that the Town Supervisor is hereby authorized to sign an Intermunicipal Agreement with Monroe County for the term of September 1, 2024 through August 31, 2025, upon review and approval by the Town Attorney.

Moved: _____

Seconded: _____

Vote: Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-131 DATE: August 7, 2024

BY: Councilperson Lee COMMITTEE: Law and Finance

NAME: **Budget Transfers for the General Fund**

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current income and expenditures,

NOW BE IT RESOLVED that the following 2024 budget transfers be approved:

TRANSFERS					
From		Amount	To		Amount
A00-1220-0002-2100		\$ 1,000.00	A00-1220-0004-4042		\$ 600.00
Supervisor - Auto			Supervisor - Subscriptions		
			A00-1220-0004-4044		\$ 200.00
			Supervisor - Special Events		
			A00-1220-0004-4041		\$ 200.00
			Supervisor - Office Supplies		
A00-1355-0001-1011		\$ 1,000.00	A00-1355-0004-4089		\$ 3,950.00
Assessor - Full time			Misc. for addtl. Legal expenses - Pete W.		
A00-1410-0004-4077		\$ 1,000.00	A00-1410-0001-1013		\$ 1,000.00
Town Clerk Conferences			Town Clerk - Seasonal		
A00-1620-0003-3002		\$ 5,000.00	A00-1620-0004-4028		\$ 5,000.00
Facilities - Alarm Systems			Facilities - Safety Equipment/Alarms		
A00-1680-0001-1011		\$ 14,000.00	A00-1680-0004-4026		\$ 14,000.00
Full Time Employees - IT			IT- Network Admin Support		

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

BY: Councilperson Lee

Committee: Law and Finance

NAME State Environmental Quality Review Act (SEQRA) Review and Determination Associated with the Local Law to Amend Town Code Sections Town Code Section 250-5.10 (Four Corners District), Section 250-6.2 (Historic Overlay Districts) and Related Town Code Sections

WHEREAS, the Town Board of the Town of Penfield wishes to amend Town Code Section 250-5.10 (Four Corners District), Section 250-6.2 (Historic Overlay Districts) and Related Town Code Sections; and

WHEREAS, the Penfield Town Board was best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and designated itself as “lead agency” pursuant to SEQRA; and

WHEREAS, the action was classified as an unlisted action pursuant to the SEQRA; and

WHEREAS, the Town Board has considered the action, reviewed the Environmental Assessment Form, thoroughly analyzed any relevant areas of environmental concern associated with this action and determined that no significant adverse environmental impacts will result from the foregoing action of adopting the foregoing local law.

NOW, THEREFORE, BE IT RESOLVED, the Town Board makes a negative declaration for the purposes of SEQRA, and authorizes the Supervisor to sign Part 3 of the EAF, thus concluding its environmental review.

Moved: _____

Seconded: _____

Vote: Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

BY: Councilperson Lee

Law & Finance Committee

NAME Adopt a Local Law to Amend Town Code Sections Town Code Section 250-5.10 (Four Corners District), Section 250-6.2 (Historic Overlay Districts) and Related Town Code Sections

WHEREAS, the Town Board of the Town of Penfield wishes to adopt a Local Law to amend Section 5.10 (Four Corners District), Section 250-6.2 (Historic Overlay District) to revise to clarify development requirements and design standards, re-organize the regulations to improve clarity, improve efficiency of development review, and delineate the review process associated with administrative reviews and approvals; and

WHEREAS, the amendment to Section 250-5.10 addresses signage requires and requires the removal of Section 250-10.26 in order to avoid duplication or conflicts; and

WHEREAS, the Penfield Town Board was best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and designated itself as “lead agency” pursuant to SEQRA; and

WHEREAS, the subject application was determined to be an unlisted action pursuant to the State Environmental Quality Review Act (SEQRA).

WHEREAS, the Town conducted a public hearing on the matter on June 5, 2024 in conformance with NYS Municipal Home Rule Law; and

WHEREAS, the Town Board completed the environmental review and adopted a negative declaration, which concluded SEQRA.

NOW, THEREFORE, BE IT

RESOLVED, AND HEREBY ENACTED BY THE TOWN BOARD OF THE TOWN OF PENFIELD AS FOLLOWS:

Local Law No. 7 of 2024, set forth in attached Schedule A; and

BE IT FURTHER RESOLVED, after its adoption by the Town Board of the Town of Penfield, this local law shall take effect immediately upon its filing with the Office of the Secretary of State of the State of New York.

Moved: _____

Seconded: _____

Vote: Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

BY: Councilperson Lee

Committee: Law and Finance

NAME Acceptance of Monroe County Sidewalk Grant Award

WHEREAS, Town of Penfield has been awarded the requested \$699,339.20 for installation of sidewalks per the Monroe County Legislature resolution 191 of 2024

WHEREAS, the Town of Penfield will proceed with the proposed sidewalk project in accordance with Monroe County’s requirements for funding; and

NOW, THEREFORE, BE IT RESOLVED, the Town accepts the grant funding and authorizing the Town Supervisor or Town Engineer to execute any agreements or applications associated with the grant funding program, including County Highway permitting.

Moved: _____

Seconded: _____

Vote:	Berry	
	Lee	
	Leenhouts	
	Ockenden	
	Teglash	

PENFIELD TOWN BOARD RESOLUTION NO. 24T-135

DATE: August 7, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorization for Supervisor to sign a contract with Day Automation for door access control equipment for the new DPW garage facility

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$54,196.23, with Day Automation, through NYSOGS Contract # PT68783, for door access control equipment in the new DPW garage facility at 1607 Jackson Road. This resolution and the proposal submitted by Day Automation shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$54,196.23 from the Assigned General Fund Balance as an amendment to the 2024 budget for these services.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-136

DATE: August 7, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorization for Supervisor to sign a contract with Day Automation for HVAC control equipment for the new DPW garage facility

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$528,399.76, with Day Automation, through NY SOGS Contract # PT68783, for HVAC control equipment in the new DPW garage facility at 1607 Jackson Road. This resolution and the proposal submitted by Day Automation shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$528,399.76 from the Assigned General Fund Balance as an amendment to the 2024 budget for these services.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-137

DATE: August 7, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Appointment to Historic Preservation Board

BE IT RESOLVED, that the following be appointed to the Historic Preservation Board for the terms listed below. An annual salary will be paid as established by the Town Board.

	<u>Term</u>
Nick Crast	2024-2026

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-138

DATE August 7, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Appointments to the Energy & Environmental Conservation Committee (EECC)

BE IT HEREBY RESOLVED, that the following be appointed to the Energy & Environmental Conservation Committee for a term to expire December 31, 2024:

Members: Ariadna Cheremeteff
Stephen Daly

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

BY: Councilperson Ockenden

Public Works Committee

NAME Authorizing the Penfield Town Supervisor to Enter into an Inter-municipal Agreement (IMA) with Penfield Central School District for the Use of District-Owned Property for Town of Penfield Temporary Brush Drop-off at 2660 Penfield Road (Tax ID: 126.03-1-10)

WHEREAS, the Town of Penfield has the opportunity to use of 2660 Penfield Road (“the Property”) to serve as a temporary location for brush drop-off for the Town of Penfield during the DPW reconstruction project; and

WHEREAS, the owner of the Property, the Penfield Central School District, was amenable to executing an Inter-Municipal Agreement (“Agreement”) with the Town to utilize a portion of the property for brush drop-off and make required modifications associated with said use; and

WHEREAS, the action was classified as a Type I action under State Environmental Quality Review Act (SEQRA) and the Town Board, acting as Lead Agency, conducted a coordinated review of the proposed project, carefully examined the potential environmental impacts, and made a Negative Declaration (Resolution 24T-117), which concluded the SEQRA process; and

WHEREAS, the Town’s temporary use of a portion of District-owned land pursuant to the Agreement is immune from local zoning based on the following factors:

1. The Town’s need for a temporary location to store residents’ brush is an instrumental service that has been provided for many years and is considered an important service by many residents and the Town wishes to continue providing this service.
2. There is no encroachment by any other legislative body. The Agreement sets forth the terms of the Town’s use of a District-owned property located entirely within the Town of Penfield’s municipal boundary.
3. As stated above, the project does not encroach on any other municipality.
4. The land will be used to provide an alternative temporary location for an existing municipal service and the proposed site modifications were designed by the Town of Penfield Engineering Department and reviewed by the Town of Penfield’s Department of Public Works (DPW), and the New York State Department of Environmental Conservation (NYSDEC) for compliance with all applicable state regulations and includes the preparation of a Stormwater Pollution Prevention Plan. The use of the property does not include the construction of any buildings or other occupiable or storage structures.
5. The proposed site is located in the Rural Agriculture (RA) district and the proposed activity is compatible with permitted land uses in the district and there is no less restrictive zoning district available to allow this proposed use.
6. The proposed use of the property will serve the Town of Penfield’s own local interests by allowing the continuation of an important municipal service (i.e., brush drop-off by residents and occasional processing of brush to create mulch that is used by the Town on various town properties and made available to residents for free pick up).
7. No other alternative sites or locations available for the Town’s consideration met the town’s project needs.

8. The proposed Agreement and temporary use of the property for brush drop-off has been reviewed by various technical staff from the Town and District, as well as legal counsel for both parties. The proposed site modifications associated with the temporary use conform to all applicable State regulations and permitting requirements, and do not include the construction of any buildings or other occupiable structures on the site.
9. The Town's interests are being served by allowing the Town to continue a municipal service.

WHEREAS, this resolution authorizes the Supervisor to enter into Agreement with the understanding that the temporary brush drop-off location will only be used while the current DPW project site is under construction; and

WHEREAS, the Agreement will not be executed until the temporary brush-drop off practices and policies have been finalized and approved by the Town Board; and

WHEREAS, Town of Penfield Town Attorney and Counsel to the Penfield Central School District have reviewed the proposed Agreement and find the terms of the agreement mutually agreeable to both parties.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Town Supervisor to execute the Agreement on behalf of the Town of Penfield subject to final approval by the Town Attorney.

AND BE IT FURTHER RESOLVED, that once executed by both parties, the signed Agreement will be filed in the Town Clerk's Office and the Monroe District Clerk's Office.

AND BE IT FURTHER RESOLVED, once filed, the Town Board authorizes the Director of Public Works to commence the planned site modifications associated with the Town's brush drop-off, in accordance with the terms of the Agreement.

Moved: _____

Seconded: _____

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

NEW BUSINESS

PENFIELD TOWN BOARD RESOLUTION NO. 24T-_____

DATE: August 7, 2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: Appointment of School Tax Collector for the 2024-2025 School Year for the Wayne Central School District

WHEREAS, Section 37 of the Town Law of New York State provides that collection of school taxes in first class towns is the duty of the Town’s Receiver of Taxes & Assessments unless a Resolution is adopted by the Town Board to convey this responsibility to the tax collector appointed by the Board of Education,
and

WHEREAS, Penfield is one of six first-class townships within the boundaries of Wayne Central School District, and

WHEREAS, the tax receiver as appointed by the Wayne Central Board of Education as the school tax collector for the Wayne Central School District portion of the Town of Penfield for the 2024-2025 school year,

NOW, THEREFORE, BE IT RESOLVED, that the Penfield Town Board hereby approves the appointment of The Town of Ontario / Shelley LaRocca, as School Tax Collector for the Wayne Central School District portion of properties in the Town of Penfield.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

cc: Wayne Central School District

**INTERMUNICIPAL AGREEMENT
REGARDING THE TOWN OF PENFIELD’S USE OF A PORTION OF
2660 PENFIELD ROAD (TAX ID: 126.03-1-10)**

This INTERMUNICIPAL AGREEMENT (the “Agreement”) is made pursuant to Article 5-G of the General Municipal Law between the TOWN OF PENFIELD (the “Town”), a municipal corporation with offices at 3100 Atlantic Avenue, Penfield, NY 14526, and the PENFIELD CENTRAL SCHOOL DISTRICT (the “School District”), a public school district with offices at 2590 Atlantic Avenue, Rochester NY 14625 (each hereinafter sometimes individually referred to as a “Party” and collectively referred to as the “Parties”).

WHEREAS, the Town is a member of the Monroe County Council of Governments, which has the expressed purpose of facilitating agreements and cooperation actions among member governments, fire districts, and school districts; and

WHEREAS, the School District owns a 62-acre parcel located within the Town at 2660 Penfield Road, Penfield NY 14526, Tax ID: 126.03-1-10 (the “Property”) and is amenable to executing this Agreement to permit the Town to utilize up to four and a half (4.5) acres of the Property for brush drop-off and to make required modifications associated with said use; and

WHEREAS, the Town wishes to use the Property as a drop-off location for brush materials only, as well as temporary outdoor storage of the Town’s Department of Public Works (“DPW”) materials and supplies (*e.g.*, precast catch basins, pipe, stone, spoil material) during the construction of the Town's DPW new facility at its current location (1607 Jackson Road) (the “Permitted Use”); and

WHEREAS, in order to prepare the Property for the Permitted Use, the Town will construct a 24-foot-wide stone driveway with an asphalt apron, approximately 100 LF in length

and a brush drop-off area, up to four and a half (4.5) acres in size, comprised of crushed stone and/or millings (the “Project”): and

WHEREAS, the Project will also include installation of a locking gate to control access to the proposed usable area; and

WHEREAS, both the Project and the Permitted Use considers the School District’s future long-term use of the modified portion of the property beyond the term(s) of this Agreement as amended or extended.

NOW THEREFORE, in consideration of the mutual promises made herein, and for other good and valuable consideration, the adequacy and receipt of which each Party acknowledges by its signature below, the Parties agree as follows:

1. **Permitted Use**. The School District shall permit the Town to use up to four and a half (4.5) acres of the Property for the Permitted Use (the “Permitted Use Area”), which includes a drop-off location for brush materials only, as well as temporary outdoor storage of the Town’s Department of Public Works (“DPW”) materials and supplies (*e.g.*, precast catch basins, pipe, stone, spoil material) during the construction of the Town's DPW new facility at its current location (1607 Jackson Road), under the terms and conditions set forth herein. The Permitted Use Area includes the drop-off and storage area of up to four and a half (4.5) acres together with a stone driveway to Gloria Drive. A map showing the approximate location of the Permitted Use Area is attached hereto and made a part hereof as *Appendix A*. Upon expiration or termination of the agreement, the Town shall restore the Permitted Use Area to substantially the same condition existing as of the date of this Agreement, except as otherwise agreed.

2. **Project**. In order to prepare the Property for the Permitted Use, the Town is permitted to and will expand the existing site entrance to construct a 24-foot-wide stone driveway

with an asphalt apron, approximately 100 LF in length and a brush drop-off area, up to four and a half (4.5) acres in size, comprised of crushed stone and/or millings (defined above as the “Project”). The Project will also include installation of a locking gate to control access to the Permitted Use Area.

3. **Initial Term.** This Agreement shall be effective as of the first day of the month after last executed by the Parties (the “Effective Date”). The initial term of this Agreement shall be two (2) years from the Effective Date.

4. **Renewal.** After the initial two (2) year term, the Agreement may be renewed in writing by both parties for successive one-year terms, until the temporary use by the Town is no longer required.

5. **Termination.** Pursuant to N.Y. Education Law §403-a(6)(a)–(c), this Agreement may be canceled by the School District at any time with two (2) months’ notice upon:

- a. A substantial increase or decrease in enrollment at the School District; or
- b. A substantial change in the needs and requirements of the School District with respect to facilities; or
- c. Any other change that substantially affects the needs or requirements of the School District or the community in which it is located.

6. **Notice.** Any notice, request, instruction or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been given, (i) when received if given in person, (ii) on the date of acknowledgment of receipt if sent by facsimile or by overnight courier, or (iii) three days after being deposited in the U.S. mail, certified or registered mail, postage prepaid and addressed as follows:

- a. To the Town: Supervisor, Town of Penfield, Penfield Town Hall,

3100 Penfield Road, Penfield, New York 14526; and

- b. To the School District: Superintendent of Schools, Penfield Central School District, 2590 Atlantic Avenue, Rochester NY 14625.

7. **Project Infrastructure.** At the conclusion of the last term, the infrastructure installed as part of the Project will become the property of the School District. The School District may continue to maintain the infrastructure or remove it at the School District's sole cost and expense.

8. **Assignment and Transfer.** This Agreement shall not be assigned, transferred or otherwise conveyed to any other party without the express written consent of the non-assigning Party prior to such assignment or transfer.

9. **Applicable Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York for documents executed within the State of New York. The County of Monroe in the State of New York is hereby designated as the place of trial for any action or proceeding arising from or in any way connection with enforcement or a breach of this Agreement.

10. **Binding Effect.** This Agreement and the transactions provided for herein shall be binding upon and inure to the benefit of the Parties, their heirs, distributees, legal representatives, transferees, successors and assigns.

11. **Construction.** All understandings and agreements made by and between the Parties are merged into this Agreement, which alone fully and completely expresses the full and entire agreement of the Parties with respect to its subject matter. This Agreement supersedes any and all prior agreements concerning its subject matter and may not be changed or terminated, nor any of its provisions modified or waived, except in writing signed by all Parties to this Agreement.

12. **Representations & Warranties Concerning Authority.** Each of the

undersigned Parties represents and warrants as follows by executing this Agreement: (a) that he or she has read this Agreement and understands its contents, terms, conditions and promises and its legal effect; (b) that he or she has the authority to execute this Agreement on behalf of the Party on whose behalf he has signed and its predecessors, successors and assigns; (c) that he or she is executing this Agreement freely and voluntarily with the intent to bind his or her respective Party and its predecessors, successors and assigns to the terms, conditions and promises of this Agreement; and (d) each Party to this Agreement acknowledges and represents that they each have relied solely upon facts obtained from their own investigation in executing this Agreement and that they each have not relied upon any statement or representation of any nature from the other Parties or the other Parties' attorneys or representatives. Each Party also represents that it was represented throughout the negotiating process underlying this Agreement by an attorney, and that it has had the opportunity to thoroughly discuss all aspects of this Agreement with his own private attorney.

13. **Contingencies.** This Agreement remains contingent upon prior approval by the School District's Board of Education. This Agreement remains contingent upon continued insurance coverage outline in Section 13 below.

14. **Insurance.** The Town will supply the School District with a certificate of insurance with the following limits and requirement:

- General Liability coverage of \$1,000,000 per occurrence and \$3,000,000 in the aggregate
- Umbrella Liability coverage of \$10,000,000 per occurrence and \$10,000,000 in the aggregate
- Owners and Contractors Protective Liability coverage, naming both the Town and the School District, of \$1,000,000

The School District must be listed as an additional insured with the Town and any contractor. Such insurance shall include a waiver of subrogation.

15. **Miscellaneous.** The following provisions will apply to this Agreement:

a. the paragraph headings contained in this Agreement have been prepared for convenience of reference only and will not control, affect the meaning, or be taken as an interpretation of any provision of this Agreement; and

b. several copies of this Agreement may be executed by the Parties, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument; and

c. this Agreement may be signed upon any number of counterparts with the same effect as if signature on all counterparts are upon the same instrument; and

d. signatures delivered by facsimile or electronically shall be deemed original signatures for all purposes of this Agreement; and

e. in the event any term or condition of this Agreement should be breached by any Party and thereafter waived by the other Party, such waiver shall only be effective in writing and shall be limited to the particular breach so waived and shall not be deemed to waive any other breach either prior or subsequent to the breach so waived; and

f. whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

IN WITNESS WHEREOF, Each Party has caused this Agreement to be executed by him
on the date set forth below.

TOWN OF PENFIELD

Dated: _____

By: Jeffrey Leenhouts, Supervisor

PENFIELD CENTRAL SCHOOL DISTRICT

Dated: _____

By: Dr. Thomas K. Putnam, Superintendent of Schools

Schedule A

Town of Penfield

Local Law # 7 of 2024

Amending Penfield Town Code Section 250-5.10 (Four Corners District) and Section 250-6.2 (Historic Preservation Overlay District) and Section 250-10.26 (Four Corners Signage).

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

Section 1. Title.

This Local Law shall be known as “Amending Penfield Town Code Section 250-5.10 (Four Corners District) and Section 250-6.2 (Historic Preservation Overlay District)”

Section 2. Legislative Intent and Purpose

The Town of Penfield has identified revisions to the existing regulations that clarify the development and operational standards for the district, recognize the historic character of the district and reference the presence of historic overlay districts, and establishes a more efficient process for administrative review for specific ministerial changes in occupancy or ownership of properties within the district boundaries.

Given the correlation between the Four Corners District and the Historic Preservation Overlay District, this local law also includes a minor addition to the Certificate of Appropriate criteria, which will provide the Historic Preservation Board the opportunity to consider costs associated with improvements. The modification will also make Penfield’s historic preservation guidelines more consistent with similar historic districts in neighboring communities.

Section 3. Proposed Changes to Town Code Section 250-5.10

Penfield Town Code Section 250-5.10 shall be removed and replaced with the following:.

250-5.10

A. Purpose and Intent. The purpose of the Four Corners District is to encourage a mix of commercial and residential uses that preserves the historic character of the area and creates a walkable, “village-like” center. It is the intent of this District to encourage development patterns and uses that address the following priorities:

- (1) Establish a compatible mix of residential, retail, business, service and civic uses.

- (2) Preserve and protect the integrity of historic resources that contribute to the character of the Four Corners District.
- (3) Ensure new construction and exterior modifications to existing structures are aesthetically pleasing and visually complement adjacent buildings.
- (4) Encourage shared access across adjacent lots to reduce curb cuts, where feasible, and improve traffic flow and safety.
- (5) Encourage shared use of, and shared access to, off-street parking areas.
- (6) Foster safe pedestrian connectivity.
- (7) Ensure adequate buffers between developments and encourage well-designed landscaping and greenspaces on, and between, development sites.

B. Permitted Uses. The Four Corners District shall have no uses permitted by right. Any uses existing at the time of the effective date of this section, as amended or changed, shall be permitted to continue to operate as is. Any future changes in use or intensity of use within the district will be subject to the regulations contained in this section.

C. Conditional Uses. The following uses may be permitted once the required conditional use permit and any other required approvals have been approved.

- (1) Retail stores
- (2) Restaurants (sit-down or take out)
- (3) Personal service salons and shops (e.g., barber shops, hair salon, aesthetics salon, etc.)
- (4) Professional and medical offices
- (5) Financial institutions
- (6) Gasoline service station, without vehicle repair
- (7) Places of worship
- (8) K-12 schools (private and public)
- (9) Childcare and nursery schools
- (10) Instructional schools for dance, music, trades, tutoring and other skill-building training programs
- (11) Photo studios, art galleries and similar
- (12) Senior living facilities, including skilled nursing facilities
- (13) Residential structures
- (14) Off-street parking lots
- (15) Combinations of conditionally permitted residential and non-residential uses
- (16) Other uses determined by the Town Board to be compatible with, and/or similar to, the conditional uses outlined above and consistent with the priorities of the Four Corners District and the Town's current adopted Comprehensive Plan. Uses approved under this provision require a public hearing to be conducted before the conditional use permit can be issued.

- D. Accessory Uses and Structures. Subordinate uses and structures needed to support the conditionally permitted use(s) are deemed appropriate in the district and shall be reviewed by the Town Board and/or authorized official having jurisdiction. Accessory uses and structures include, but are not limited to, sheds and storage structures, dumpster enclosures, EV charging stations, patios, gazebos, pergolas, and other covered outdoor areas.
- E. Design Guidelines. The following design guidelines provide a framework for the development and redevelopment of properties located within the Four Corners District. They emphasize the need for flexibility and creativity in this district to ensure that the village-like development pattern is maintained over time. Additions or modifications to existing structures or properties in this district must conform to the requirements set forth herein, notwithstanding any related provisions contained elsewhere in Chapter 250.
- (1) Lot Area and Coverage. There are no set minimums or maximums in this district. Proposed development and/or redevelopment projects shall demonstrate their ability to meet all local, state and federal regulations (e.g., stormwater management, traffic, parking, site ingress and egress, etc.). Town Engineer approval will be required.
 - (2) Setbacks. No structure within the Four Corners District shall be located closer than 30 feet to the front property line, 10 feet to a side property line or 30 feet to a rear property line. On corner lots, the 30-foot minimum front setback shall be provided along each road frontage. A buffer area of at least 50 feet shall be provided along the boundary line between the Four Corners District and any developed parcel located in an adjacent residential zoning district. The Town Board shall have the power to modify applicable provisions of this Subsection E(2) if the setbacks would promote appropriate land use and development and/or facilitate the efficient use of streets, parking and/or utility infrastructure, provided the proposed setbacks meet setback requirements contained in the NYS Uniform Code
 - (3) Building Massing and Design. Building design is flexible in this district. The Town Board shall consider the parcel location, topography, proposed architectural features and design, exterior building materials and distance(s) to adjacent structure(s) when determining whether a proposed building fits the character of the district. In general, building designs should conform to, and complement, the recommendations in the Four Corners District Plan, as amended or updated. Larger-massed buildings proposed in this district should include design elements that break up the façade and replicate a village-like scale. Building height shall not exceed three stories or 45 feet or whichever is less. The Town Board may consider taller building height if the topography and surrounding development

support the increase in height.

(4) Off-Street Parking and Access Management. Shared parking and access are encouraged to the greatest extent feasible in the Four Corners District.

(a) Minimum parking required. While there is no specific ratio of parking spaces based on specified uses, applications for new conditional use permits and site plan approval shall demonstrate enough parking for employees and their customers and clients. The Town may require a parking study as part of their review of an application.

(b) Shared parking. Parking associated with proposed development and/or new land uses may be provided on nearby parcels.

[1] Off-site parking on private property will require a shared parking agreement and/or easement, subject to Town Attorney approval prior to being filed in the Monroe County Clerk's Office.

[2] Proposed off-site parking in Town-owned parking lots shall be approved by the Town Board and, based on the Town Attorney's review and guidance, may require legal agreement(s) and County Clerk filing(s).

(c) Shared access is encouraged and may be provided through common driveways, private drives, or parking lot access aisles.

[1] Shared access shall be documented in shared access easement(s), which will be subject to Town Attorney approval before being filed in the Monroe County Clerk's Office.

[2] In instances where driveway entrances to parking areas are one-way only property owners shall ensure directional signage and pavement markings are provided at highly visible locations near the driveway entrance(s) and exit(s).

(5) Signage. Signage shall incorporate design elements and materials that reflect the historic character of the district and complement traditional architectural building elements. Once signage design has been approved in accordance with the approvals outlined herein, required sign permit(s) must be obtained through the Building Department prior to installation or replacement.

- (a) Free-standing, ground-mounted monument signage is preferred over pole mounted signage.
 - (b) Lighting for signage should be provided via gooseneck-style/overhanging exterior-mounted fixtures to the greatest extent practicable. If ground-mounted lighting is proposed, it shall be sized and installed in a way that minimizes light spill off the sign surface.
 - (c) Chanel lit free-standing or building mounted signage may be considered if the design of the sign complements the building style and there will be zero light spill beyond the property line.
 - (d) Portable temporary signs (e.g., A-frame sign) are permitted and must conform with the requirements of 250-10.11 M. One sign may be displayed for each business. If more than one A-frame sign is proposed for any business, application to the Town Board for review and approval shall be required.
 - (e) Temporary signs and/or banners, excluding A-frame signs outlined in (d) herein, may be permitted for limited periods of time. The temporary signs and/or banners must be located on private property in proximity to the business and may not exceed 24 square feet in size. Special permits will be granted administratively in one-week intervals for a maximum of 4 weeks total in a given calendar year. Each week's special permit shall require a sign permit issued through the Building Department.
- (6) Pedestrian and bicycle accommodations. As new development and redevelopment occurs, opportunities for enhanced pedestrian and bicycle amenities should be provided, including sidewalks, pedestrian pathways through parking lots, bicycle storage areas (e.g., racks or indoor storage), outdoor seating, and other physical improvements and fixtures deemed appropriate by the Town Board.
- (7) Conformance with applicable Historic Preservation Overlay District regulations. Properties located in designated historic districts and properties that are designated as local, state and/or federal landmarks shall conform to the historic preservation requirements set forth in Section 250-6.2 of the Town Code.

F. Operational Standards.

- (1) Hours of Operation. Non-residential uses are permitted to be open to the public anytime between the hours of 6:00 a.m. and 12:00 a.m. (midnight). The Town Board may allow hours of operation beyond this limit if the proposed use and

location warrant such consideration in the issuance of the conditional use permit. Any granting of extended hours requires a public hearing before the Town Board can render its decision. Any extended hours granted by the Town Board shall expire when the granted use ceases.

(2) Property Maintenance. All property owners are responsible for the maintenance and upkeep of their properties and buildings. As a condition of approval, the Town Board or authorized official(s) may require a non-residential development to provide a maintenance agreement as described in 250-7.12.

(3) Waste Management. All receptacles for refuse and recycling shall be stored in a way that minimizes their view from public rights-of-way. Dumpsters shall be enclosed in a structure as approved by the Town Board or authorized official(s).

G. Specialty District Application Required. Before any subdivision of land, changes in use or occupancy, alteration(s) of a building or site, installation of new or replacement signage occurs, a specialty district application shall be submitted to the Town of Penfield using the forms and instructions provided by the Department of Developmental Services. The Department of Developmental Services will review the application to determine the appropriate review and approval process.

(1) Application fees are set forth in the Town's fee schedule, as adopted by the Penfield Town Board.

H. Town Board Review.

(1) Town Board approval shall be required for the following:

- (a) subdivision of land;
- (b) site plan approval for construction of any new building;
- (c) site plan approval is required for addition(s) to an existing building and/or construction of any accessory structure(s) that exceed 200 square feet;
- (d) site plan approval for site modifications that alter parking configuration, site access, pedestrian connectivity, lighting, or disturb more than 1,000 square feet of land;
- (e) modifications to existing building facades that noticeably alter the building's exterior aesthetic appearance;
- (f) issuance of a conditional use permit for a new occupancy that will result in a change in use classification per the NYS Uniform Code;
- (g) installation of permanent signage in a new location and/or alteration or replacement of an existing sign's materials, size, design or location.

(2) Public Hearing Required. A public hearing shall be conducted for any application that involves subdivision of land, site plan approval as outlined in 250-5.10 (H)

(1), and/or any Town Board approval that requires variations from design standards or operational standards contained herein.

- (3) Authority to grant approval(s). The Town Board maintains unfettered discretion in the granting or denying of its approvals and may determine, on a case-by-case basis, if variations from design guidelines and/or operational standards are warranted to meet the purpose and intent of the Four Corners District. However, in all cases, the Town Board and authorized official(s) will ensure compliance with all applicable state and federal regulations and/or requirements.

I. Administrative Review.

- (1) Notwithstanding the provisions of 250-13, administrative Review may be conducted for the following:

- (a) Replacement of signage that is similar in size, location, and materials, with no significant change in the sign type or design elements (e.g. sign lighting). Temporary signage as described in E(5)(d) herein is subject to administrative review but may be referred to the Town Board for review and approval.
- (b) Replacement of dumpster enclosures with similar in-kind materials.
- (c) Building additions, accessory structures or site modifications below the thresholds contained in H (1)(c) and (d) herein.
- (d) Parking lot repairs, resurfacing and restriping, with no change to configuration except for bringing the lot into conformance with local, state or federal regulations (e.g., ADA Design Standards).
- (e) Revised conditional use permit to reflect changes in property ownership.
- (f) Revised conditional use permit required for changes in building or tenant space occupancy that do not create a change in use classification per the NYS Uniform Code and have a similar intensity of use as the previous occupant (e.g., type of occupancy, parking needs, hours of operation, number of employees and customers, etc.).

- (2) Staff Approval Required. Any applications eligible for administrative review, shall be reviewed and approved by the Director of Developmental Services and/or other Authorized Official prior to the Town's issuance of any revised Conditional Use Permits or issuance of any other required permits or approvals (e.g., building permit, fire marshal approval or sign permit, etc.). Additionally, any administrative applications that include physical alterations of a site or building

shall be reviewed and approved by the Town Engineer prior to the issuance of any other permits or approvals, including but not limited to building permits and sign permits

- (3) Right to refer to Penfield Town Board. Any application eligible for administrative review may be referred to the Town Board at any time, at the discretion of the authorized official(s) reviewing the application.

Section 4. Amendment to Section 250-6.2(F)1

Section 250-6.2(F) shall be amended to include the following additional item.

(3) Special considerations for existing buildings. For existing buildings, the Historic Preservation Board shall consider the availability of materials, technology, and craftsmanship that is in keeping with existing styles, patterns, textures and overall detailing. When several acceptable alternatives are deemed appropriate, costs may be considered by the Historic Preservation Board.

Section 5. Remove Section 250-10.26

Section 250-10.26 shall be removed in its entirety.

~~Businesses operating within the Four Corners District shall be subject to the requirements of this article, with the exception of the following:~~

- ~~A. Freestanding signs shall not be located closer than 15 feet to the front property line nor closer than 50 feet to any adjacent residential property.~~
- ~~B. Freestanding signs shall be no greater than eight feet in height.~~
- ~~C. Illumination of wall mounted or freestanding signs shall only be from an external source.~~
- ~~D. Such sign shall be consistent in design, architectural treatment and the use of materials with the buildings and uses it is intended to serve.~~
- ~~E. Businesses shall be permitted to display one portable temporary on site sign. Portable temporary on site signs are permitted, subject to the requirements of § [250-10.11M](#) of this article.~~

Section 6. Severability

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.

