

NOTICE OF ADOPTION OF LOCAL LAW #7 OF THE YEAR 2016  
TOWN OF HAMBURG  
ERIE COUNTY, NEW YORK

NOTICE IS HEREBY GIVEN that after a public hearing duly held in the Town of Hamburg, New York (the "Town") in accordance with law, the Town Board of said Town on the 7th day of November, 2016, adopted the following local law to wit: Local Law No. 7 of the year 2016:

Section 1: Adoption of amendments to the Hamburg Town Code, in the following chapters and sections.

1. Amend Chapter 280 (Zoning), " Article XLV. Zoning Board of Appeals", by deleting from Section 280-310, under paragraph B. Special Permits, sub-paragraph (1) Temporary structures and uses, and sub-paragraph (2) Permitted temporary structures or uses; extension of time.

Amendment is as follows: Delete 280-310 B. (1) and (2)

2. Amend Chapter 280 (Zoning), " Article XXXIX. Supplemental Lot Size and Open Space Regulations", by amending Section 280-277 A. (2) to have the Planning Board approve barb wire fencing instead of the ZBA.

Amendment is as follows: Amend 280-277 A. (2) by removing "Zoning Board of Appeals" and replacing with "Planning Board".

3. Amend Chapter 100 (Dogs), under Section 100-3 Control of dogs, paragraph A., sub-paragraph (2), by removing "service dog, working search dog, war dog, detection dog or therapy dog".

Amendment is as follows: amend Section 100-3, paragraph A., sub-paragraph (2) by deleting "service dog, working search dog, war dog, detection dog, or therapy dog"

4. Amend Chapter 100 (Dogs), under Section 100-13 Redemption; impoundment fees, by adding a new paragraph B.

Amendment is as follows:

If the Dog Control Officer or Police Officer finds a dog that has been reported to be running at large, and the owner is found by the DCO or Police Officer, and the owner can show proof that the dog is duly licensed and has a current rabies shot, the dog may be returned to the owner and sections 100-13, A (1)-(3) are waived by the Town of Hamburg.

The remainder of the section shall be "re-lettered", C. through F.

5. Amend Chapter 191. Peddling and Soliciting, Article II. Transient Retail Merchants to require a background check:

Amend Chapter 191, Peddling and Soliciting, Article II Transient Retail Merchants

Amend §191-20. License Application by adding the following:

The police officer designated by the Police Chief to order and review criminal records ("Criminal Records Officer") may cause the fingerprints of any applicant for a Transient Retail Merchant license and any applicable fee to be forwarded to the Division of Criminal Justice Services (DCJS) in the form and manner as prescribed by DCJS for a complete criminal background and investigation upon receipt of the appropriate fee from the applicant.

The Criminal Records Officer, the Town Clerk, and the Town Attorney shall review the criminal history record information (CHRI) disseminated by DCJS in connection with the applicant's criminal background and investigation.

In making the determination of the applicant's fitness for the requested permit, based upon the information provided by DCJS, New York State Correction Law §§701 through 703b and §§751 through 753 shall be given due consideration.

6. Amend Chapter 213. Smoking, Section 213-2. Definitions, by adding to the definition "e-cigarettes", as follows:

Amend §213.2. Definitions to add the following under Smoking:

...tobacco substitute, electronic cigarette or e-cigarette, or smokeless tobacco...

Amend §213.2 Definitions to add the following term:

Electronic Cigarette or E-Cigarette

A battery operated device that contains a cartridge and/or liquids consisting of chemicals, nicotine and/or flavoring that are turned into vapor which may be inhaled by a user.

## Smokeless Tobacco

Any product that consists of cut, ground, powdered or leaf tobacco that is intended to be placed by the consumer in an oral cavity.

## 7. Amend Chapter 227. Streets and Sidewalks, Article II. Sidewalk Maintenance and Repair, §227-A

### Chapter 227 Streets and Sidewalks

#### Article II. Sidewalk Maintenance and Repair

##### §227-A1. Duties of owners.

It shall, in all cases, be the duty of the owner of every lot or piece of land in said town to keep the sidewalks adjoining the owner's lot or piece of land in good repair and to remove and clean away all snow and ice and other obstruction from such sidewalks. Failure to do so will result in the costs of any repair done by the Town of Hamburg to be assessed against the landowner, and further, said landowner shall be liable in tort for any injuries to any person or property as a result of the landowner's failure to comply with this article.

##### §227-A2. Unsafe sidewalks; notice to repair; appeals.

A. Sidewalks shall be considered to be unsafe after notice as required in Article 1 of this chapter is received and if, by determination of the Town Engineer, they are so broken, cracked, lifted, spalled or scaled or otherwise deficient to cause a clear and present danger to pedestrians. Upon such determination, the owner of the property where such sidewalk is located will be notified, in writing, by standard form of the need to repair or replace the sidewalk in question. Such notice shall specify the sidewalk or portions thereof which require repair or replacement and contain a brief summary of the reasons therefor. Such notice shall be served upon such owner by personal service or by certified mail, return receipt requested, addressed to the last known address as shown on the latest completed assessment roll of the Town of Hamburg. If delivery of the certified mail is returned or unclaimed, then service shall be made by regular mail and shall be deemed complete five (5) days after the date of mailing. The cost of such repair or replacement will be borne by the property owner.

B. Upon delivery of the written notice, the property owner shall make every attempt to correct the deficiency noted within a reasonable time after delivery of the notice; in no event shall more than eight (8) months elapse between the delivery of the written notice and correction of the deficient or unsafe sidewalk.

C. If, within said eight (8) month period, the sidewalks required to be repaired shall not have been repaired, then the Town Board may cause the same to be done at the expense of the property owner. If said expense, as determined by the Town, is not paid within thirty (30) days after billing the property owner, such a charge shall be a lien upon the property benefited until paid and shall be added to the property owner's tax bill as an assessment as set forth in this Article.

D. Any property owner aggrieved by a determination to repair the sidewalk or any portion thereof as contained in the written notification of the same shall have a right to appeal such determination to the Town Board by delivering a written request for review of the determination to the Clerk within sixty (60) days of delivery of said notification, which the Town Clerk shall thereupon transmit to the Town Board. Upon receipt of a timely request for review, the Town Board shall refer the matter to a person whom it shall designate for the purpose of hearing all evidence and arguments both against and in support of such determination. For this purpose, the person designated by the Town Board shall schedule a time and place for such a hearing and shall give or cause to be given adequate notice thereof to the property owner and to the Town Engineer. On such hearing, the formal rules of evidence shall not apply. Upon conclusion of such hearing, the person designated shall prepare and transmit to the Town Board a recommended decision, based upon the evidence and the arguments presented, either annulling, modifying or affirming the determination of the Town Engineer, together with a summary of the reasons therefor. Upon receipt of such recommended decision, the Town Board shall take up the matter at the next regularly scheduled Town Board meeting and shall accept, reject or modify said recommended decision. The determination of the Town Board so made shall be deemed final and binding upon the property owner and the Town Engineer.

Section 2: The foregoing local law to take effect immediately after proper filing, including with the Department of State.

Dated: November 7 , 2016, Hamburg, New York

BY ORDER OF THE TOWN BOARD OF THE TOWN OF HAMBURG

Catherine A. Rybczynski, Town Clerk  
Town of Hamburg  
Walter L. Rooth, III, Esq., Town Attorney  
Town of Hamburg