**Town of Lexington August 1, 2023**

**Public Hearing & Town Board Meeting**

**PUBLIC HEARING- FAIR HOUSING LAW**

Supervisor Schermerhorn opened the public hearing at 6:00pm and explained that we need to have this law in place in order to apply for the block grant. It was asked if the short term rental law discriminates against resident versus non-residents and the answer was no.

**Present:** Supervisor JoEllen Schermerhorn

Council Members Bradley Jenkins

William Pushman

Bennett Wine (Zoom)

Michael Barcone

Superintendent of Highways Kevin Simmons

Town Clerk Charlotte Jaeger

Town Attorney Tal Rappleyea (zoom)

**Others Present:** Paul and Liza Dwon, Julie Simonson, & Jesse Nover. **Zoom:** Larry Russ & Shelly

**Close Public Hearing and Open Town Board Meeting**

On a motion by Council Member Bradley Jenkins, Seconded by Council Member Michael Barcone the public hearing was closed and the regular monthly town board meeting was opened at 6:05 followed by the Pledge of Allegiance to the American Flag. There was a moment of silence for Cenon Sporton, James Miller, and Elizabeth Williams Hapeman.

**RESOLUTION # 56-23**

**Accept June 6, 2023 Public Hearing and Town Board Minutes**

On a motion by Council Member William Pushman, seconded by Council Member Bennett Wine the following was,

ADOPTED: Ayes – 5 - Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the June 6, 2023 minutes as presented for the public hearings and regular Town Board meeting.

**RESOLUTION # 57-23**

**Accept July 5, 2023 Town Board Minutes**

On a motion by Council Member Bennett Wine, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays -0

Therefore this Town Board moves to accept the July 5, 2023 minutes as presented.

**RESOLUTION # 58-23**

**Accept May 2023 Financial Report**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the Financial Report for May 2023.

**RESOLUTION # 59-23**

**Accept June 2023 Financial Report**

On a motion by Council Member William Pushman, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhonr, & Wine

Nays -0

Therefore this Town Board move to accept the Financial Report for June 2023.

**Highway Report**

Superintendent of Highways Kevin Simmons said that they have been working with cold patch to repair some of the damage done by the heavy rain. The mowing has been completed.

**RESOLUTION # 60-23**

**Local Law No. 5 0f 2023 Fair Housing Law**

On a motion by Council Member Bennett Wine, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board adopts Local Law No. 5 of 2023 Town of Lexington Fair Housing Law.

**TOWN OF LEXINGTON**

**FAIR HOUSING LAW**

**Preamble**

A law prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate related transactions.

**Article1: Purposes and Enactment**

Section 100 Purposes and Enactment

For the purpose of providing and ensuring fair housing opportunities for all within the Town of Lexington, the Town Board of the Town of Lexington, in the County of Greene, Stated of New York, under the authority of the General municipal and Town Laws, hereby obtains, enacts, and publishes this Law.

**Article 11: Definitions**

Section 200 Definitions

210 General For the purposes of this Law, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the plural, words used in the present tense include the future tense, the word “person” includes a corporation as well ans an individual, and the word “shall” is always mandatory.

202 Specific Words or Phrases – For the purposes of this Law, certain terms or words herein shall be interpreted as follows:

“Dwelling” means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for dale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Person” includes one or more individuals, corporations, partnerships, associations, labor, organizations, legal representative, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

“Family” includes a single individual.

“To Rent” includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. “Discriminatory housing Practices” means an act that is unlawful under Articles 111, 1V, and V.

**Article 111: Discrimination in the Sale or Rental of Housing**

Section 300 Discrimination in the Sale or Rental of Housing Except as exempted by Article Vl, it shall be unlawful within the Town of Lexington:

**(a)** To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin.

**(b)** To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status, or national origin.

**(c)** To make, print, or publish, or cause to be made, printed or publishes, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or and intention to make any such preference, limitation or discrimination,

**(d)** To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

**(e)** For profit, to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

**Article 1V: Discrimination in the Financing Housing**

Section 400 Discrimination in the Financing of Housing

It shall be unlawful within the Town of Lexington for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling; or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, handicap, familial status, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Article V1.

**Article V: Discrimination in the Provision of Brokerage Services**

Section 500 Discrimination in the Provision of Brokerage Services

It shall be unlawful within the Town of Lexington to deny any person access to or membership or participation in any multiple listing service, real estate broker’s organization, or other service organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, sex, handicap, familial status, or national origin.

**Article V1: Exceptions**

Section 600 Exceptions

601 Sales/Rentals by Owners – Nothing in Article 111 (other than Subsection c0 shall apply to:

**(1)** any single family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single family houses at anytime: Provided further, that in case of the sale of any such single family house by a private the individual owner not residing in such house at the time of the sale, or who was not the recent resident of such house prior to such sale, the exception granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three such single family houses at one time; Provided further, that the same or rental of any such single family shall be excepted from the application of this Law only if such house is sold or rented

**(a)** without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesman, or person, and

**(b)** without the publication, posting, mailing, after notice, of any advertisement or written notice in violation of Article 111 of this Law; but nothing in this provision shall prohibit the use of attorney, escrow agents, abstractors, title companies and other such professional assistance as may be necessary to perfect or transfer title, or

**(2)** rooms or units in dwellings containing living quarters occupied or intended to be occupied by not more than four families living independently of each other, if the owner actually maintains and for the purpose of this exemption, a person shall be deemed to be int the business of selling or renting dwellings if:

**(a)** he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwellings or any interest therein, or

**(b)** he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

**(c)** he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

602 Sales/Rentals by Religious Organizations – Nothing in this Law shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupant of dwellings which it owns or operates of other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, handicap, familial status, or national origin, nor shall anything in this Law prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes, provide lodgings which it owns or operates for other than a commercial purpose, from limiting the rental of occupancy or such lodgings to its members or from giving preference to its members.

**Article V11: Administration**

Section 700 Administration

701 Authority and Responsibility – The authority and responsibility for publicizing, administering and enforcing this Law shall be in the Town’s Fair Housing Officer, to be designated by the Town Supervisor of the Town of Lexington.

702 Violations – Violations of this law shall be reported in person or in writing to the Town’s Fair Housing Officer within a year of the alleged discriminatory housing practice.

703 Enforcement – Where sufficient cause exists to believe that the terms of this Law have been violated, the Fair Housing Officer shall institute a suit in Court against the alleged violator within 120 days following the issuance of the charge.

704 Penalties Where a person or organization has been found, after a trial on the merits, in violation of this Law, a fine shall be imposed on such person or organization not to exceed $1,000 for a first offense, and $2,000 for a second offense and $5,000.00 for a third offense. The minimum fine for violations of this Law shall be $500 for a first offense, and $500 for each additional offense. Each and every separate violation to this Law shall be deemed an offense for the purposes of imposing the appropriate fine.

**Article V111: Miscellaneous Provisions**

Section 800 Miscellaneous Provisions

801 Amendment – The Town Board may, on its own initiative or on petition, amend, supplement, or repeal the provision of this Law in conformity with applicable law ager pucli notice and hearing.

802 Interpretation – In their interpretation and application, the provisions of this Law shall be held to be minimum requirements, adopted fo rthe promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this Law are at variance with requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

803 Validity – The validity of any section or provisions of this Law shall not invalidate any other section or provision thereof.

804 Short Title – This Law shall be know and may be cited as “The Town of Lexington Fair Housing Law”.

805 Effective Date – This Law shall take effect immediately upon adoption.

**RESOLUTION #61-23**

**Negative Declaration**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays – 0

Therefore this Town Board answered no to the 11 questions on the Short Environmental Assessment Form Part 2 – Impact Assessment and so declares that there will not be a negative impact.

**RESOLUTION #62-23**

**Designation A Town of Lexington Fair Housing Officer**

**WHEREAS, The** Town of Lexington adopted Local Law No. 5 of 2023, “Fair Housing Law”; and

**WHEREAS,** The Town of Lexington must designate a Fair Housing Officer for the purpose of ensuring required fair housing activities are undertaken by the Town and proved a contact for public complaints regarding fair housing issues, now therefore be it hereby

**RESOLVED,** that the Building Code Enforcement Officer, is hereby designated as the Town’s Fair Housing Officer.

Supervisor Schermerhorn made a motion that was seconded by Council Member Bradley Jenkins that was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays -0

Therefore this Town Board moves to appoint Code Enforcement Officer Carl Giangrande the Fair Housing Officer for the Town of Lexington.

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LEXINGTON   
SUPPORTING THE APPLICATION OF THE TOWN OF ASHLAND FOR   
OPERATING AUTHORITY FROM THE NEW YORK STATE DEPARTMENT OF   
HEALTH AND THE REGIONAL EMERGENCY MEDICAL SERVICES COUNCIL OF   
THE HUDSON -MOHAWK VALLEYS, INC.**

WHEREAS, the provision of ambulance and emergency medical services is vital to the residents of the Town and is, therefore, an appropriate matter for concern and deliberation by the Town Board; and

WHEREAS, it has come to the attention of the Town Board that there is reduced availability and an inadequate level of care in ambulance emergency medical service available within the Town and that the present model of providing ambulance service to the Town through the Town of Ashland's Municipal Operating Authority is unduly cumbersome and does not allow for the Town and the Towns of Ashland and Prattsville to furnish ambulance service to their residents in the most efficient and cost effective manner possible; and

WHEREAS, the Legislature has determined that the aforesaid reduced availability and inadequate level of care needed in the Town is not readily correctable through the reallocation or improvement of existing resources and that a new resource model is needed; and

WHEREAS, the Legislature recognizes the value and benefit that the provision of consistent and reliable 24-hour a day, 7-days a week ambulance coverage provides to the health and safety of the citizens of and visitors to the Town; and

WHEREAS, after careful deliberation, it is the position of the Town Board that the present circumstances have created a "public need" for the addition of ambulance and emergency medical services and advanced life support providers as the term "public need" is utilized by the Department of Health Bureau of EMS, and

WHEREAS, the Town Board determines that the current status of ambulance and emergency medical services in the Town may present a threat to the health and safety of residents of the Town if not addressed; and

WHEREAS, the Town Board has met with representatives of the Town of Ashland and has determined that the Town of Ashland is able to provide the staffing and level of care commensurate with the needs of the Town and now necessary as a consequence of the deficiencies in available and current services as a result of the issues stated above; and

WHEREAS, the Town of Ashland does not currently possess traditional ambulance service operating authority to provide ambulance and emergency medical care throughout the Town but has done so in the past under its Municipal Certificate and has expressed a willingness to provide such necessary services in the Town through the new service in response to the Town of Lexington's request for such services; now, therefore, be it

RESOLVED, that the Town Board, as the governing body of the Town of Lexington, does hereby declare that in its opinion, "public need" exists for the provision of ambulance and advanced life support services in the Town as set forth above, thereby creating a potential future threat to the health and safety of residents of the Town; and be it further

RESOLVED, that as a precursor to the Town of Ashland being authorized to initiate ambulance service to ameliorate the "public need" described above pursuant to a traditional, multi-town operating certificate, the Town Board endorses and supports the application of the Town of Ashland to obtain operating authority to conduct ambulance services in the Town and to commence providing such services as soon as possible; and be it further

RESOLVED, that the Town Board hereby lends its support for the application of the Town of Ashland for permanent operating authority before the New York State Department of Health Bureau of EMS and the REMO EMS Council; and be it further

RESOLVED, that the Town Board authorizes the Supervisor to prepare and execute such documents as may be necessary to assist and to effect the Town of Ashland's efforts to establish and provide for the provision of ambulance and advanced life support services in the Town and to obtain permanent operating authority on behalf of itself to operate within the Town of Lexington

**RESOLUTION #63-23 OF THE TOWN BOARD OF THE TOWN OF LEXINGTON   
SUPPORTING THE APPLICATION OF THE TOWN OF ASHLAND FOR   
OPERATING AUTHORITY FROM THE NEW YORK STATE DEPARTMENT OF   
HEALTH AND THE REGIONAL EMERGENCY MEDICAL SERVICES COUNCIL OF   
THE HUDSON -MOHAWK VALLEYS, INC.**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Michael Barcone the above resolution was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays- 0

Therefore this Town Board of the Town of Lexington moves to adopt the Resolution Supporting the application of the Town of Ashland for operating authority from the New York State Department of Health and the Regional Emergency Medical Services Council of the Hudson-Mohawk Valley, Inc.

**RESOLUTION # 64-23 Urging the Governor to Veto A.04282B/S.3505B to Move Certain Local Elections to Even-Numbered Years**

On a motion by Council Member Bradley Jenkins, seconded by Council Member William Pushman the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to adopt a Resolution urging the Governor to Veto A.04282B/S3505B to Move certain Local Elections to Even-Numbered Years. The Resolution is as follows:

**Whereas,** the Lexington Town Board believes that increasing participation in the election process and reducing costs of government operations is good for our republic; and

**Whereas,** Assembly Member Amy Paulin and State Senator James Skoufis reintroduced legislation that would move local elections to even-numbered years during the 2023 legislative session; and

**Whereas,** versions of this legislation were introduced in previous years and failed to reach the floor for a vote due to lack of support; and

**Whereas,** after the 2022 session concluded, the bill sponsor indicated that hearings would be held on the proposal through the Election Committee process; however, there were no hearings held; and

**whereas,** the legislation passed in the middle of the night on the last days of the legislative session which is counter to the idea of an open and transparent government; and

**Whereas,** the Lexington Town Board has several concerns with this bill; and

**whereas,** this legislation usurps the Home Rule powers reserved by local governments and protected by the Constitution o f the State of New York, raising Questions of legality and constitutional authority; and

**Whereas,** local municipalities have had the ability to change their elections to even-number years for decades, and chose not to do so; and

**Whereas, w**e believe that establishing the schedule of local elections is the right of the local government, and has been for more than 100 years; and

**Whereas,** The Assembly Bill sponsor indicated that she had not received any messages of support for this proposal from any of the 57 Counties and 933 Towns across New York State impacted by this legislation; and

**Whereas,** this legislation excludes more than half of all New Yorkers who vote in cities and villages from the changes to election law, creating an inequity among New York voters; and

**Whereas,** this legislation unfairly excludes the elections to offices in New York City and all other cities and villages in New York State, as well as certain offices within all counties and towns: and

**Whereas,** the proposed legislation circumvented the legislative committee process during this session, limiting public input and understanding of the impacts; and

**Whereas,** there has been no financial analysis or operational analysis of the impacts on local Boards of Elections: and

**Whereas,** there are concerns that the current election and ballot counting technology would not be able to adequately meet the demands of the significantly increased ballot size; and

**Whereas,** this will create confusion amongst voters in towns and counties across New York State; and

**Whereas,** separating the elections affords voters more time and focus to better understand important local issues and provides candidates the appropriate platforms to explain their stance on issues without having to compete against national and state level campaigns; and

**Whereas,** moving local elections to even-numbered years would increase the cost of campaigns for local office, reducing the number of candidates willing to invest funds into their own campaign, because the cost of media will increase to compete with national and state level campaign advertisements; and

**Whereas,** there are significant legal and constitutional questions regarding the legality of this measure that have not been adequately addressed; and

**Now, Therefore Be it Resolved** that this Town Board urges the Governor to oppose this legislation and utilize her veto authority to reject this proposal; and

**Resolved,** that copies of this resolution be distributed by the Lexington Town Clerk to Governor Kathy Hochul, Senate Majority Leader Andrea Stewart Cousins, Assembly Speaker Carl Heastie, Senate Minority Leader Robert Ortt, Assembly Minority Leader William Barclay, Assembly Bill Sponsor Amy Paulin, Senate Bill Sponsor James Skoufis, Senator Michelle Hinchey, and Assemblyman Chris Tague.

**Hotel Update**

Supervisor Schermerhorn said that there was a closing on the property. The new owner is looking to get information on the hotel and the old post office to see about historical registry.

**Anthem Sports Bike Race – Saturday, 8/12/23**

Supervisor Schermerhorn just wanted to remind everyone about the race.

**RESOLUTION #65-23**

**Surplus Property Out to Bid**

On a motion by Council Member Michael Barcone, seconded by Council MemberWillial Pushman the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays – 0

Therefore this Town Board moves to put this surplus property off from Fuller Road out to bid. A notice will be sent to adjoining land owners and it will be posted in the newspaper and on the Town web site.

The bids need to be in at the Town Clerks’ office by 4:00 pm on August 31, 2023. The bids will be opened at the next Town Board meeting on September 5, 2023.

**Health Officer Report**

Liza Dwon said that Greene County sent out an alert that there is a spike in over doses (no deaths) in Greene County and that the County sent out masks. They do have narcan kits and test strips. NY alert has a download for alerts and to sign up you can go to alert.ny.gov. There will be 2 CPR classes, one for the snowmobile club in August and at HTC school. Be aware of the air quality and keep hydrated with the heat. Be sure to check for ticks as they are carrying diseases.

Fire Chief Paul Dwon said that there were 8 incidents last month with a total of 58 for the year so far. The stencils are in for the helo pad. He said that anytime there is something going on he needs to be informed to let the other towns know.

**Code Enforcement Reports**

The Board members had reports to go peruse at their leisure. There were 3 certificates of occupancy of compliance issued, 1 C of O search, and 3 permits issued.

**RESOLUTION #66-23**

**Audit Committee Report**

On a motion by Council Member William Pushman, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 5– Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to approve the paying of the following expenditures.

**Highway Fund** No. 106 Through No. 125 = $ 25,805.12

**General Fund** No.193 Through No. 218 = $ 10,507.73

**Lighting District** No. 8Through No. 8 = $ 280.38

**Sewer District** No. 34 Through No. 39 = $ 769.19

**Public Be Heard**

Jesse Nover said that he and Julie Simonson had bought a home and they did not know about the short term rental law. Julie was wondering if there would be a reexamination of the law. Council Member Barcone said that they had just made an amendment but there could be a reexamination in the future but not before they see how the amendments are working. Julie said that she doesn’t want to have to sell the house. She agrees with all of the safety measures but is not happy with the cap. Larry said that when Nicole spoke 2 months ago that a Town should not have more than 10% in short term rentals and he believes that should be the cap and keep it there. Council Member Wine said that he thinks there could be a case of fraud regarding the real estate agent and he does not think we should raise the cap. Council Member Barcone said that even though the numbers went up, a number of them are full time residents. The renewals will go out in September and need to be paid by the end of the year.

**Adjourn**

On a motion by Council Member William Pushman, seconded by Council Member Michael Barcone and with no further business and with none opposed Supervisor Schermerhorn adjourned the meeting at 7:17 pm.

Respectfully Submitted,

Charlotte Jaeger, Town Clerk