

TOWN BOARD  
TOWN OF WASHINGTON  
October 9, 2008

The Town Board of the Town of Washington held its regular meeting on Thursday, October 9, 2008, at the Town Hall, Reservoir Drive, Millbrook. The meeting was called to order at 7:00 PM by Supervisor Florence Prisco with the following present: Councilmen Stephen Turletes, Allan Rappleyea, Michael Murphy and Robert Audia, Town Clerk Mary Alex, Highway Superintendent James Brownell, Deputy Highway Superintendent Edward Wheeler, Bookkeeper to the Supervisor Laura Hurley, Building Inspector Jack Neubauer, Attorney for the Town John Gifford and Associate Attorney Rebecca Valk.

Also present were Kate Farrell, Willie Murphy, Tom Beaumont, Don Hanson, Louise Moore, Janine Stankus, Howard Schuman and Frank Genova.

Supervisor Prisco opened the meeting with the Pledge of Allegiance.

Highway Superintendent Brownell advised the Board that a bid opening for Highway materials was held on Wednesday, October 8<sup>th</sup>, at 12 noon. He has reviewed all of the bids and presented the Board with his recommendations. On a motion made by Councilman Rappleyea and seconded by Councilman Turletes the bids by the following companies were accepted for the period of November 1, 2008 – October 31, 2009:

Number 2 Fuel Oil	Jeff Daley
Diesel Truck Fuel	Jeff Daley
Gas (Unleaded)	Jeff Daley
Liquid Bituminous Road Oil	Peckham
Bituminous Mix (Blacktop)	Dutchess Quarry* and Amenia Sand and Gravel*
Sand, Gravel and Dry Stone	Red Wing* Darling Sand* Route 82 Sand and Gravel* Amenia Sand and Gravel*
Liquid Calcium	James Reed Sales

\*Based on availability and length of haul.  
All eyes were recorded.

Mr. Brownell advised the Board that he would be on vacation for three weeks and Mr. Wheeler will be running the department in his absence. The men are currently preparing their trucks for the winter, cutting trees and doing general maintenance. Major road projects have been completed for the year.

County Legislator Fettes was on the agenda to inform the town of any updates that they should be aware of. Mrs. Fettes was not able to be present.

Supervisor Prisco was pleased to announce that the town has received a generous donation of \$150,000.00 from the Millbrook Tribute Garden Foundation for the park expansion project. The Town is very fortunate to have received this funding as it will go a long way towards completing the project, at very little cost to the town taxpayers.

The Town was notified by Jason Tourscher, an Ecologist, with the Chazen Companies, that he has spoke with Ms. Niver at the US Fish and Wildlife Service that she has received the town's assessment letter and a letter from the concerned citizens of Millbrook Matters. She is currently reviewing the submittal. Mr. Tourscher hopes to have a written response from Ms. Niver in 2 – 3 weeks.

Mrs. Hurley presented the Board with Revenue and Expense reports. The Town has received 92% of anticipated revenue. There will be a potential shortage of \$65,000.00 in mortgage tax revenue. The Board was provided a copy of the raw data from Dutchess County regarding mortgage taxes received at the County Clerk's office on a month to month basis. The town will not receive the full revenue reported, as the county and village both receive a portion of the money.

At the request of Mrs. Hurley, on a motion made by Councilman Rappleyea and seconded by Councilman Audia the following resolution was presented:

WHEREAS, the Town has established a capital account specific to parkland development; and

WHEREAS, a donation of \$150,000.00 has been granted to the Town from the Tribute Garden Foundation; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes the \$150,000.00 to be deposited into the Capital Account for Parkland Development.

All ayes were recorded.

Dutchess County charge backs to the town for items like the Assessor's connection with OCIS, printing of tax bills and refunds due to assessment changes amounted to \$10,913.21. The amount budgeted in 2008 was \$10,000.00. Mrs. Hurley requested a budget amendment of \$913.21 from the A fund contingency to the County charge back line to meet this budgeted shortfall.

On a motion made by Councilman Turletes and seconded by Councilman Audia the Board approved a transfer of \$913.21 from A 1990 0400 (Contingency line) to A 1972 0400 (County Charge backs). All ayes were recorded.

Josh Mackey entered the meeting.

As the Board is continuing to work on the 2009 budget, it was decided that the Board will schedule the Public Hearing after the next budget workshop meeting.

Building Inspector Jack Neubauer advised the Board that he recently attended a workshop meeting hosted by FEMA and the NYS DEC to discuss the study of the 100

year floodplain in the state. New maps have been prepared for a flood area that is predicted to flood in an area once every one hundred years. The important thing for residents to know is that at the time their home was built, it might not have been in a floodplain, but with the new map their property might be in a flood plain area. They will be required to purchase flood insurance which costs about \$800.00 per \$100,000. of assessed value. Mr. Neubauer will attempt to determine the number of properties that will be affected. The new mapping will be provided to him on a disc and hopefully he can do a tax grid overlay.

Supervisor Prisco addressed the next agenda item which is the proposed local law for Disability exemptions. The Resolution has been prepared by Attorney Valk.

BE IT ENACTED by the Town Board of the Town of Washington that the Town Code is amended to read as follows:

Section 1. The Town of Washington Town Board hereby adopts the exemption for Exemption for Persons with disabilities and limited incomes to read in its entirety

**RESOLUTION**

Councilman Rappleyea, seconded by Councilman Audia, introduced the following proposed local law, to be known as Local Law No. \_\_\_ of 2008, entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK ADOPTING THE EXEMPTION FOR PERSONS WITH DISABILITIES AND LIMITED INCOMES PURSUANT TO REAL PROPERTY TAX LAW SECTION 459-c AND INCREASING THE AMOUNT OF THE EXEMPTION FOR SENIOR CITIZENS PURSUANT TO REAL PROPERTY TAX LAW SECTION 467. as follows:

Tax Exemptions for Persons with disabilities and limited incomes

A. Statutory authority

Tax exemptions under this article are provided pursuant to the authority granted under Real Property Tax Law Section 459-c and are subject to all the terms and provisions of that section.

B. Exemption stated

Subject to the terms of this local law, real property owned by one (1) or more persons with disabilities, or real property owned by husband, wife, or both, or by siblings, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under for the Senior Citizen's Exemption under RPTL Section 467, and whose income is limited by reason of such disability, shall be exempt from taxation by the Town of Washington to the extent of fifty per centum of the assessed valuation thereof.

C. Income limit

1. No owner or owners of real property shall be entitled to the exemption provided in this article if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds \$27,000 (“Maximum Income”) except as provided in Paragraph “2” below.
2. An owner or owners of real property with income in excess of the Maximum Income ("M") set forth in (C)(1) above shall be entitled to exemptions in accordance with the following schedule:

ANNUAL INCOME	PERCENTAGE ASSESSED VALUATION EXEMPT FROM VALUATION
More than Maximum Income (“M”) but less than (M + \$1,000)	45 per centum
(M + \$1,000) or more but less than (M + \$2,000)	40 per centum
(M + \$2,000) or more but less than (M + \$3,000)	35 per centum
(M + \$3,000) or more but less than (M + \$3,900)	30 per centum
(M + \$3,900) or more but less than (M + \$4,800)	25 per centum
(M + \$4,800) or more but less than (M + \$5,700)	20 per centum
(M + \$5,700) or more but less than (M + \$6,600)	15 per centum
(M + \$6,600) or more but less than (M + \$7,500)	10 per centum
(M + \$7,500) or more but less than (M + \$8,400)	5 per centum

Section 2. The Town of Washington Town Board hereby elects to amend and increase the maximum income eligibility level for the granting of the partial exemption from municipal taxation to person sixty-five (65) years of age or over pursuant to the authority of Paragraph (a) of subdivision 3 of Section 467 of the Real Property Tax Law as follows:

a. No owner or owners of real property shall be entitled to the exemption provided in Real Property Law Section 467 if the income of the owner or combined owners of the property for the income tax year immediately preceding the date of making application for the exemption exceeds \$27,000 ("Maximum income") except as provided in subsection B, below.

b. An owner or owners of real property with income in excess of the maximum income set forth in Subsection A above shall be entitled to exemptions in accordance with the following schedule:

ANNUAL INCOME	PERCENTAGE ASSESSED VALUATION EXEMPT FROM VALUATION
More than Maximum Income ("M") but less than (M + \$1,000)	45 per centum
(M + \$1,000) or more but less than (M + \$2,000)	40 per centum
(M + \$2,000) or more but less than (M + \$3,000)	35 per centum
(M + \$3,000) or more but less than (M + \$3,900)	30 per centum
(M + \$3,900) or more but less than (M + \$4,800)	25 per centum
(M + \$4,800) or more but less than (M + \$5,700)	20 per centum
(M + \$5,700) or more but less than (M + \$6,600)	15 per centum
(M + \$6,600) or more but less than (M + \$7,500)	10 per centum
(M + \$7,500) or more but less than (M + \$8,400)	5 per centum

Section 3. This local law shall take effect immediately upon filing with this state's Secretary of State.

Supervisor Prisco advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon

this local law. Councilman Rappleyea offered the following resolution which was seconded by Councilman Audia, who moved its adoption:

WHEREAS, on October 9, 2008, Councilman Rappleyea has introduced this local law for the Town of Washington, to be known as “Town of Washington Local Law No. \_\_\_ of the Year 2008, a local law of the Town of Washington, Dutchess County, New York, ADOPTING THE EXEMPTION FOR PERSONS WITH DISABILITIES AND LIMITED INCOMES PURSUANT TO REAL PROPERTY TAX LAW SECTION 459-c AND INCREASING THE AMOUNT OF THE EXEMPTION FOR SENIOR CITIZENS PURSUANT TO REAL PROPERTY TAX LAW SECTION 467

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 10 Reservoir Drive, Millbrook, New York, on Nov. 13, 2008 at 7:00 o’clock, p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

**NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Washington will hold a public hearing at the Town Hall, 10 Reservoir Drive, Millbrook, New York on November 13, 2008 at 7 o’clock, p.m., on Local Law No. \_\_\_ of the Year 2008, ADOPTING THE EXEMPTION FOR PERSONS WITH DISABILITIES AND LIMITED INCOMES PURSUANT TO REAL PROPERTY TAX LAW SECTION 459-c AND INCREASING THE AMOUNT OF THE EXEMPTION FOR SENIOR CITIZENS PURSUANT TO REAL PROPERTY TAX LAW SECTION 467.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Washington, at the Town Hall, 10 Reservoir Drive, Millbrook, New York between the hours of 9:00 a.m. to 12:30 p.m. and then between 1:30 p.m. to 3:00 p.m.. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco	AYE
Councilman Turletes	AYE
Councilman Rappleyea	AYE
Councilman Murphy	AYE
Councilman Audia	AYE

Ms. Moore asked the Board if the legislation has an expansion for unreimbursed medical expenses. Ms. Valk said that allowance is not in this draft, and as far as she is aware, no other towns in Dutchess County offer that exemption.

## RESOLUTION

Councilman Rappleyea, seconded by Councilman Turletes, introduced the following proposed local law, to be known as Local Law No. \_\_\_ of 2008, entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO EXTEND LOCAL LAW #4 OF THE YEAR 2007 "A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO AMEND THE ZONING CODE OF THE TOWN OF WASHINGTON TO ADD A NEW SECTION 395 ENTITLED 'REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS'" FOR AN ADDITIONAL YEAR.

BE IT ENACTED by the Town Board of the Town of Washington that the Town Code is amended to read as follows:

### Section 1. PURPOSE

The Interim Development Law, adopted as Local Law No. 4 of 2007, became effective upon filing with the New York State Department of State on November 16, 2007. By its express terms the Interim Development Law was due to expire one (1) year from the date of filing, or November 16, 2008.

The Town Board, the Comprehensive Master Plan Review Committee and all sub-committees, along with the Town's consultants all continue to study, review and consider the content of the Town's future master plan. During the last year, the Comprehensive Master Plan Review Committee and all of its sub-committees conducted extensive research and met on a regular basis to discuss, evaluate and debate the research gathered. In addition, the Town will be retaining a consultant to assist with conducting a survey of the community, gathering the work of the various sub-committees to date and utilizing that work to draft the master plan document. Subsequently, the proposed master plan document will be reviewed pursuant to the State Environmental Quality Review Act and, upon adoption of the new master plan document, necessary companion updates, if any, to the Town Zoning Code will be prepared.

Inasmuch as the Comprehensive Master Plan Review Committee, the Town Board and the Town's consultants will require some additional time to draft the proposed master plan, set a date(s) for public comment, and adopt the new master plan document and any necessary companion updates to the Town Zoning Code as recommended by the Comprehensive Master Plan Review Committee, much of which will take place after November 16, 2008, the Board deems it prudent to extend the expiration date of the Interim Development Law for an additional one (1) year period to provide the Board sufficient time in which to consider the new Master Plan and obtain public comment. This extension to Local Law No. 4 of 2007 is specifically determined to be necessary in order to maintain the *status quo* pending continued work on the preparation and enactment of a new Master Plan and any necessary companion updates to the Town Zoning Code.

### Section 2. AUTHORITY

This extension of Local Law #4 of 2007 is enacted by the Town Board of the Town of Washington pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law Section 10.

Section 3. ENACTMENT OF EXTENSION TO THE TEMPORARY MORATORIUM

The expiration date of LOCAL LAW #4 OF 2007, ENTITLED "A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO AMEND THE ZONING CODE OF THE TOWN OF WASHINGTON TO ADD A NEW SECTION 395 ENTITLED 'REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS'", is hereby extended for a period of one (1) year beginning November 16, 2008, after which date Local Law #4 of 2007 shall lapse and be without further force and effect unless further extended by action of the Town Board.

Section 4. This Local Law shall be filed immediately with the Secretary of State as provided by law and shall be effective as of November 16, 2008.

Supervisor Prisco advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this local law. Councilman Rappleyea offered the following resolution which was seconded by Councilman Turletes, who moved its adoption:

WHEREAS, on October 9, 2008, Councilman Rappleyea has introduced this local law for the Town of Washington, to be known as "Town of Washington Local Law No. \_\_\_ of the Year 2008, a local law of the Town of Washington, Dutchess County, New York, to extend Local Law #4 of the Year 2007 "A local law of the Town of Washington, Dutchess County, New York to amend the Zoning Code of the Town of Washington to add a new section 395 entitled 'Regulation for an Interim Period of Development and Use of Lands and Buildings'" for an additional year.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 10 Reservoir Drive, Millbrook, New York, on November 13, 2008 at 7 o'clock, p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

**NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Washington will hold a public hearing at the Town Hall, 10 Reservoir Drive, Millbrook, New York on November 13, 2008 at 7 o'clock, p.m., on Local Law No. \_\_\_ of the Year 2008, to extend Local Law #4 of the Year 2007 "A local law of the Town of Washington, Dutchess County, New York to amend the Zoning Code of the Town of Washington to add a new section 395 entitled 'Regulation for an Interim Period of Development and Use of Lands and Buildings'" for an additional year.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Washington, at the

Town Hall, 10 Reservoir Drive, Millbrook, New York between the hours of 9:00 a.m. to 12:30 p.m. and then between 1:30 p.m. to 3:00 p.m.. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco	AYE
Councilman Turletes	AYE
Councilman Rappleyea	AYE
Councilman Murphy	AYE
Councilman Audia	AYE

Supervisor Prisco advised that the Town had requested that Ms. Valk draft proposed legislation regarding the use of off road vehicles in the town. The draft legislation has been provided to the Town Board, Planning Board and Zoning Board of Appeals for comments. A copy of the proposed regulation is attached to these minutes. A public hearing has not yet been set. Comments or suggested changes to the draft legislation may be sent to Supervisor Prisco.

On a motion made by Councilman Rappleyea and seconded by Councilman Audia the minutes of August 25, 2008 and September 11, 2008 were accepted as presented. All ayes were recorded except from Councilman Turletes who abstained.

Councilman Audia reported that he is awaiting a date for the soffets work to begin. He is awaiting two more bids for the stairway enclosure outside of the town hall. He has also met with Lou Spagnola regarding the chimney pipes. Mr. Spagnola is to provide the town with an estimate of costs.

The Comprehensive Plan Committee will be meeting on Monday to have a conference call with River Street to review the contract.

Councilman Murphy advised that the Planning Board has approved the application by Higher Ground Farm on Chestnut Ridge Road. The Planning Board and ZBA met with the owners of the Mabbettsville Market to go through their checklist.

Councilman Rappleyea will be attending the Recreation Commission meeting next week.

Mr. Beaumont said that he recently attended a function at the Town Park and was stunned at the beauty and greatness of the park. Tom and Warren do a fantastic job.

Supervisor Prisco agreed that we have a special jewel in our community. She said that Tom does all the maintenance and we are fortunate to have him.

Mr. Genova stated that the Village of Millbrook is looking to extend and increase the terms of office for the Mayor and Trustees. He asked if the town will consider this. Supervisor Prisco said that it will be going to a permissive referendum. The Town Board has not had any discussions on this.

At 8:15 PM, on a motion made by Councilman Rappleyea and seconded by Councilman Audia the Board moved into Executive Session for an attorney client matter. All ayes were recorded. Ms. Farrell asked what the subject of the Executive Session would be. Ms. Valk advised that it is fully covered under the attorney – client privilege and the topic does not have to be released. At 9:20 PM on a motion made by Councilman Murphy and seconded by Councilman Rappleyea the regular meeting resumed. All ayes were recorded.

On a motion made by Councilman Turletes and seconded by Councilman Audia the following claims were accepted as presented:

Gen Fund A	\$24,710.43
Gen Fund B	\$1,820.29
Youth Rec Fund	\$2223.00
Highway Fund DB	\$91,565.61
PB Escrow	\$735.00
TOTAL	\$121,054.33

All ayes were recorded.

There being no other business, on a motion made by Councilman Audia and seconded by Councilman Turletes the meeting was closed at 9:50 PM. All ayes were recorded.

---

Mary Alex, Town Clerk

The following is a copy of the proposed draft legislation regulating off road vehicles.

## **DRAFT LEGISLATION**

### *OFF-ROAD VEHICLES*

*1. LEGISLATIVE FINDINGS, PURPOSES AND AUTHORITY A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO REGULATE THE USE AND OPERATION OF OFF-ROAD VEHICLES.*

*BE IT ENACTED by the Town Board of the Town of Washington as follows:*

*Section 1. "OFF-ROAD VEHICLES" to read in its entirety as follows:*

*A. The use and operation of off-road vehicles is a hobby gaining increasing interest in the Town of Washington. The Town Board finds that it is in the public interest to promote the proper and safe use and operation of such vehicles; to limit the operation of off-road vehicles upon public property and private property without the consent of the owner; to reduce the effect of excess noise on the residents of the Town; and to afford the opportunity for compatible enjoyment of various recreational activities in the Town.*

*B. This law is enacted pursuant to the Town's authority under the Municipal Home Rule Law.*

*2. DEFINITIONS*

*OFF-ROAD VEHICLES: Any all-terrain vehicle that is motor-propelled or contains a motor to assist the operation of said vehicle and which vehicles are commonly referred to as "dirt bikes", "minibikes", "trail bikes", "motorized sport bikes", "Go-Karts" "all-terrain vehicles (ATVs)", "trikes", "quads", "snowmobiles", "dune buggies" and "golf carts," etc., which vehicles, by their nature and design, are not intended to be used and operated along paved roads and highways but are intended, rather, to be operated in dirt, sand, up and down hills, along trails and in similar-type areas.*

*OPERATE: To ride in or on, other than as a passenger, or to use or control the operation of an off-road vehicle in any manner.*

*OPERATOR: Every person who operates or is in actual physical control of an off-road vehicle.*

*PRIVATE PROPERTY: All land and buildings in the Town of Washington which is neither included in the definition of "public property" nor part of the public road system.*

*PUBLIC PROPERTY: Lands and buildings, including Town parks owned or leased by the Town of Washington, any school district, Dutchess County or the State of New York or any other equivalent public*

*body. This definition specifically excludes any public roadways owned or maintained by any of the aforementioned public entities.*

*RACE: The operation of more than two off-road vehicles (as that term is defined herein) either simultaneously or under timed conditions, at any speed on the same parcel of land.*

3. *PROHIBITED ACTS*  
*It shall be unlawful to operate an ATV in the following locations and/or manner:*

- A. Upon any parcel of land with the Town, as a participant in a race.*
- B. Upon public property at any time without express consent or a permit issued by the governmental agency in control of said property, which shall include easements granted to the Town including the same or similar restrictions.*
- C. Upon private property (other than that private property owned by the family of the operator) without the written consent of all of the owners of the private property. Said written permission must be in the possession of the person operating the off-road vehicle and must be presented, upon demand, to any code enforcement officer, peace officer or police officer so demanding.*
- D. In violation of the requirements and regulations of the Department of Motor Vehicles of the State of New York. Should the Department of Motor Vehicles require registration or licensing of said vehicles, then it shall be unlawful to operate said vehicle without proper registration and licensing.*
- E. In a manner that is disturbing and bothersome to adjoining property owners.*
- F. Within 100 feet of any dwelling other than the dwelling house of the operator or of the property owner(s) consenting to the operation of an off-road vehicle on its property.*
- G. In a manner which causes or otherwise results in the propulsion of sand, dirt, dust, rocks, gravel or other similar materials beyond a property line.*
- H. Upon public or private property in such a way as to harass, worry or disturb farm animals, domestic livestock or wildlife or further to destroy or damage crops or farm produce.*

- I. *Without an operable muffler or other similar device to reduce the sound emitted from the vehicle or at a noise level of 75 decibels at a property or street line.*
- J. *On or near any public roadway so as to cause operators of other motor vehicles to take evasive or irregular action to distance said motor vehicle(s) from an off-road vehicle.*
- K. *Which is not in proper operating condition, which means that all of the original operating equipment specified by the original manufacturer or replacement equipment equal to the specifications of the original manufacturer's equipment must be present.*
- L. *Upon any private street or right-of-way within the Town of Washington without the written permission of the owner of the private street or right-of-way. Said written permission must be in the possession of the person operating the off-road vehicle and must be presented, upon demand, to any code enforcement officer, peace officer or police officer so demanding.*
- M. *While under the influence of liquor or drugs.*
- N. *Without a protective helmet of a type which has been approved by the Commissioner of Motor Vehicles.*

4.

**EXCLUSIONS**

*This law shall not apply to the following:*

- A. *The operation of off-road vehicles on premises owned by the operator in the course of his business or by employees of the owner on property on which the business of the owner is located; or*
- B. *Any snowmobile or all terrain vehicles (ATVs) registered with the Commissioner of Motor Vehicles that is owned by a governmental agency or volunteer organization and is used exclusively for emergency purposes.*

5.  
**OFFENSES**

**ENFORCEMENT and PENALTIES FOR**

- A. *This local law may be enforced by any code enforcement officer of the Town of Washington or any peace officer or police officer having jurisdiction within the Town of Washington.*
- B. *Any person, firm group, partnership corporation or other entity who is guilty of a violation of this Local Law shall, upon*

*conviction thereof, be subject to a fine of \$250 for a first offense and \$500 for a second offense and any subsequent offense within a twelve-month period measured from the date of the first alleged violation of this Local Law. Each day that a violation continues shall be deemed a separate offence.*

- C. *Appropriate actions and proceedings may be taken at law or in equity to prevent or remedy unlawful violations or infractions of any portion of this local law, and these remedies shall be in addition to penalties otherwise prescribed by law.*

*Section 2. The Zoning Code of the Town of Washington is hereby amended as follows:*

A. *Section 610 "Definitions" is*

*amended to add the following:*

1. *OFF-ROAD VEHICLES: Any all-terrain vehicle that is motor-propelled or contains a motor to assist the operation of said vehicle and which vehicles are commonly referred to as "dirt bikes", "minibikes", "trail bikes", "motorized sport bikes", "Go-Karts" "all-terrain vehicles (ATVs)", "trikes", "quads", "snowmobiles", "dune buggies" and "golf carts," etc., which vehicles, by their nature and design, are not intended to be used and operated along paved roads and highways but are intended, rather, to be operated in dirt, sand, up and down hills, along trails and in similar-type areas.*

2. *RACE: The operation of more than two motorized vehicles, off-road vehicles (as that term is defined herein) or motorcycles, either simultaneously or under timed conditions, at any speed on the same parcel of land.*

3. *RACE TRACK: Any area of land where three or more motorized vehicles, off-road vehicles (as that term is defined herein) operate simultaneously, or under timed conditions, at any speed. The term shall include any area of land whether or not the area of land consists of a circuit or continuous loop, or whether or not the area of land consists of a defined path or course.*

4. *SPECIAL EVENT: An organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged scheduled and in which general public interest is manifested.*

B. *A new Section 397 is added to read in its entirety as follows:*

*397. OFF-ROAD VEHICLES*

A. Town of Washington Town Code Section 310(1) states that "Only those uses specifically listed shall be permitted." However, the Town Board believes that, given the emergence of various individuals throughout the Town who are using their property for the operation of off-road vehicles, the Town Board believes that a specific zoning code section regarding the operation of off-road vehicles is necessary to better state the Town Board's original intent.

B. This section is intended to regulate the use of property for the operation of off-road vehicles. Regulations governing the operation of an off-road vehicle are included within a separate local law entitled "OFF-ROAD VEHICLES".

C. The use of property for a race, as a race track or for a special event in which off-road vehicles are displayed, exhibited or demonstrated is prohibited. Any property owner allowing his/her property to be used as described herein shall be subject to the penalties provided in Section 490 of this Zoning Code.

D. Any organizer or manager of a race or special event in which off-road vehicles are displayed, exhibited or demonstrated shall be in violation of this Section 397 and shall be subject to the penalties provided in Section 490 of this Zoning Code. For purposes of this section, an organizer or manager shall be any person, firm, group, corporation or other entity that leads, conducts, stages or is the sponsor of such race or special event.

E. The operation of less than two (2) off-road vehicles on a property is permitted subject to the following:

1. Operation shall only be permitted between the hours of \_\_\_\_ and \_\_\_\_.

2. Such operation is only permitted within the following zoning districts: \_\_\_\_\_

Section 3. This local law shall take effect immediately upon filing with this state's Secretary of State.