

(additional material for
Item 7A)



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: LOCAL LAW IMPLEMENTING THE ACT TO AMEND
THE TAX LAW IN RELATION TO AUTHORIZING THE
TOWN OF NEWBURGH TO IMPOSE A HOTEL AND
MOTEL TAX AND PROVIDING FOR THE REPEAL OF
SUCH PROVISIONS UPON EXPIRATION THEREOF
OUR FILE NO. 800.1(B)() (2021), 800. _____

DATE: JULY 9, 2021

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider
Donna M. Badura

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

Enclosed please find a suggested Negative Declaration for the Board's consideration in conjunction with the SEQR resolution of designation and determination which we previously forwarded.

Should you have any questions or concerns, please do not hesitate to contact me.

MCT/sel
Enc.

cc: Joseph P. Pedi, Town Clerk
Deborah Smith, Receiver
Lori Coady, Assessor
Ronald Clum, Town Accountant
Gerald Canfield, Code Compliance Supervisor

Project:	
Date:	

**Short Environmental Assessment Form
Part 3 Determination of Significance**

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Newburgh Town Board

_____ Name of Lead Agency	_____ Date
Gilbert J. Piaquadio	Supervisor
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

PRINT FORM

State Environmental Quality Review

NEGATIVE DECLARATION
Notice of Determination of Non-SignificanceProject Number N/ADate: July, 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town Board of the Town of Newburgh, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Host Community Benefit Agreement with Danskammer Energy LLC

SEQR Status: Type I ()
Unlisted (X)

Conditioned Negative Declaration: () Yes
(X) No

Description of Action:

The action consists of the adoption by the Town of Newburgh Town Board of a Local Law which will on and after its effective date, impose and require payment of a tax of 5% upon the rent for every occupancy of a room or rooms in a hotel or motel, including facilities commonly known as "bed and breakfasts" and "tourist facilities" in the Town of Newburgh, except that the tax shall not be imposed upon a permanent resident, or as otherwise provided therein. The action does not entail any activities that will directly impact the environment.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Town-wide
Town of Newburgh, Orange County, New York

Reasons Supporting This Determination:

(See 617.6(g) for requirements of this determination; See 617.6(h) for Conditioned Negative Declaration)

The Town Board has considered the action and reviewed the environmental assessment form and other supporting information. The proposed action consists of the enactment of a Local Law enacted pursuant to the Municipal Home Rule Law and New York State Tax Law 1202-GG(3) which will impose a tax of five (5%) of the rent for occupancy of a room or rooms in hotels in the Town. The additional revenues which will be used to reduce the burden on local taxpayers.

The action is unlisted.

None of the criteria set forth in Section 617.11 of Part 617 and any other supporting information identify relevant areas of environmental concern which would lead to a determination that the proposed enactment of the Local Law may have a significant effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope or magnitude and the number of people affected. The EAF does not indicate any adverse environmental affects, nor are any relevant areas of environmental concern identified.

With respect to the criteria that are considered indicators of significant effects on the environment, the lead agency has considered the following:

1) Existing air quality, surface or groundwater quality or quantity, traffic or noise levels, solid waste production or disposal, potential for erosion, leaching, drainage or flooding problems.

It is not at all likely that the proposed action will have any significant effect in these subject areas. The approval of the Local Law imposing a hotel occupancy tax entails no construction. Accordingly, no impacts are anticipated on air quality, groundwater quality or ground or surface water quantity, traffic levels, solid waste production or disposal or leaching problems from the approval.

The Town Board therefore concludes that it is unlikely that the Action will have any adverse effects associated with the above criteria.

2) Aesthetic, agricultural, historic, or other natural or cultural resources, or community or neighborhood character.

Because the action does not entail additional construction or further improvements to a facility any impacts in the above-mentioned subject areas associated with the Action are minimal, no mitigation measures are needed. No agricultural, or identified historic or archeological assets have been identified as being impacted by the Action.

The Town Board concludes that the action is therefore not likely to impair the character or quality of any of those factors.

3) Vegetation or fauna, resident or migratory fish, shellfish or wildlife species, significant habitats, or threatened or endangered species or habitat; or natural resources.

The approval of the Local Law will not result in the removal or destruction of vegetation or fauna; nor in significant adverse impacts to fish or wildlife species, habitats or other natural

resources. As the Local Law is not expected to have any significant impacts, either direct or indirect, on these subject areas, therefore, no mitigation measures are required. Otherwise, no effects in these areas are anticipated.

No adverse effects have been identified by the Town Board.

4) Impairment of the environmental characteristics of a Critical Environmental Area.

The environmental characteristics of a Critical Environmental Area will not be effected by the Action.

5) Existing community plans or goals, a change in the use or intensity of land including agricultural, open space and recreational resources, or other natural resources or hazard to human health.

The proposed Action does not create any conflict with any existing plans or officially stated land use policies within either the Town of Newburgh or Orange County. No hazard to human health is likely to be created.

No significant effects are accordingly anticipated by the Town Board.

6) Growth, subsequent development, or other related activities, including the attraction of a large number of people compared to the number who would otherwise come, likely to be induced by the proposed action.

The Action is not considered likely to have any impact whatsoever, whether direct or indirect, neither positive or negative, in these subject areas.

No effects are therefore anticipated by the Town Board.

7) Any other long term, short term, cumulative, or other effects not identified above.

No additional long term, short term or cumulative or other effects are anticipated.

8) Other impacts (including changes in use of either quantity or type of energy, the creation of a material demand for other actions, changes in two or more elements of the environment together, cumulative effects of two or more related actions)

No other potential impacts have been identified as being likely. The EAF notes that a few potential hotel guests may move further along their travel paths in order to avoid payment of the tax, but this is likely to have a small impact on fuel consumption. Similarly, the use of paper and electricity in the compliance, administration and enforcement of the new tax is likely to have di minimis effects. The impacts of the Local Law have been considered cumulatively.

The Town Board has also considered alternatives including the no action alternative. It has examined whether adverse environmental consequences would result from not acting, and has determined that the proposed action is appropriate.

In reliance upon the EAF and after a hard look at the potential impacts it indicates may be

reasonably expected in comparison to the criteria set forth in the SEQR regulations, the Town Board determines there is no indication that the action may have a significant impact on the environment.

In summary No effects on: (a) protected or nonprotected waterbodies, (b) surface or groundwater quantity or quality, (c) drainage flow, (d) patterns or surface water runoff, (e) existing air quality or resources, (f) vegetation, fauna, threatened or endangered species, nonthreatened or nonendangered species, habitats, or agricultural land resources, (g) aesthetic resources, (h) site or structure of historic, prehistoric or paleontological importance, (i) quality or quantity of existing or future open spaces or recreational opportunities, (j) existing transportation systems or traffic patterns, (k) the communities sources of fuel or energy supply or solid waste production or disposal, (l) objectionable odors, noise or vibration, (m) erosion, drainage or flooding or (n) public health and safety or character of existing community, are indicated.

There appears to be no public controversy related to potential adverse environmental impacts from the extension of the Agreement.

Based upon a careful and thorough review of the EAF and other supporting documents and information and after a hard look at the potential impacts it indicates may be reasonably expected in comparison to the criteria set forth in the SEQR regulations, the Town Board of the Town of Newburgh finds and determines that there is no indication that the action will have a significant impact on the environment and the facts and circumstances do not call for the preparation of an environmental impact statement.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

For Further Information: Town of Newburgh
Contact Person: Gilbert J. Piaquadio, Supervisor,
Town of Newburgh
Address: 1496 Route 300, Newburgh,
New York 12550

Telephone Number: (845) 564-4552

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice Must Be Sent to:

Chief Executive Officer, Town of Newburgh
The Lead Agency

Other involved agencies (if any): Orange County Industrial Development Agency

Any person who has requested a copy

Applicant (If any):

A Copy of the Notice Only Must Be Sent to:

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany, New York 12233-1750

For Unlisted Actions, a Copy of the Negative Declaration Must Only Be Sent to *The Lead Agency*