

Agenda

Natalie E. Nitsche Town Clerk

Town Board of the Town of Hamburg

March 9, 2026

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Minutes of Previous Meeting**
- 4. Agenda Items**
 - 4.1. Proposed Local Law #4, 2026 Public Hearing-Rezoning**
 - 4.2. Authorizing Budget Adjustment**
 - 4.3. Highway Budget Transfer**
 - 4.4. Erie County Division of Sewage Management Request for Use of Town Property**
 - 4.5. Buffalo Bills Stadium Economic & Multimodal Corridor Revitalization Project**
 - 4.6. Authorization for Highway Department on Drainage**
 - 4.7. Youth, Recreation, & Senior Services PAF**
 - 4.8. Finance and Administration PAF**
 - 4.9. Resolution Authorizing a Service Contract with CivicPlus for DocAccess ADA Accessibility Software**
 - 4.10. Renewal of Livestreaming Services Contract**
 - 4.11. Request RFP for Hamburg Town Park Concessions**
 - 4.12. Request RFP for Hamburg Town Arena Pro-Shop and Concessions**
 - 4.13. Fee Reimbursement**
 - 4.14. Local Law Amendment**
- 5. Public Comment**
- 6. Meeting is adjourned by Supervisor**

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.1. Proposed Local Law #4, 2026 Public Hearing-Rezoning

LEGAL NOTICE

TOWN OF HAMBURG

PLEASE TAKE NOTICE that there has been presented to the Town Board on February 9, 2026, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law 4, 2026 said local law provides for the amendment of Local Law #10, 1986, Chapter 280, entitled “Zoning”, and provides substantially as follows:

For the adoption of an amendment to said Zoning Code to rezone 4.14 acres of land identified as S.B.L. No. 160.18-1-9.1 located at the intersection of Southwestern Boulevard and Big Tree Road from C-1 (Local Retail Business District) to C-2 (General Commercial District.) This rezoning will permit the development of a small-scale travel center, to be anchored by an 8,700 sq-ft building with gasoline service, accompanied by several quick-service restaurant (QSR) establishments, and other site improvements.

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on March 9, 2026, at 7:00 p.m. (local time), at which time all interested people may be heard.

Dated: February 9, 2026

Natalie Nitsche

Town Clerk

Town of Hamburg

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.2. Authorizing Budget Adjustment

BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby authorizes the following budget adjustment:

Transfer From:

Account No. A000.1990.0419.0000-Contingency Account Amount:

Amount: \$1,571.00

Transfer To:

Account No. A000.7020.0440.0000 Recreation Independent Contractor Services

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.3. Highway Budget Transfer

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby approves the appropriation and transfer of \$155,782.00 from the DB [Unassigned] Fund Balance to increase appropriations in Account DB5142.467 Chemicals (Road Salt) for the purchase of road salt, as costs have exceeded the budgeted appropriation due to increased first-quarter demand associated with frequent snow and ice events and the depletion of salt purchased through the Erie County Bid process; and

BE IT FURTHER RESOLVED, that the Finance Department is authorized and directed to make all necessary journal entries, budget modifications, and related documentation to implement this resolution.

Town Board of the Town of Hamburg

March 9, 2026 Meeting

4.4. Erie County Division of Sewage Management Request for Use of Town Property

WHEREAS, the Erie County DSM owns and operates most of the sanitary sewers in the Town of Hamburg including a 21-inch and 30-inch diameter trunkline that cross through backlots between Milestrip Road and Lake Avenue; and

WHEREAS, DSM is planning for a project to install fiberglass cured-in-place pipe liners in these sewers to address significant deterioration; and

WHEREAS, DSM has contacted the Town to request access to the Town-owned park parcel located at 4699 Lake Avenue, so that the contractor can bring in equipment as part of the project; and

WHEREAS, the Town Engineer and Town Attorney have reviewed the request and found it reasonable under the conditions that the DSM contractor shall be responsible to restore the lawn to the Town's satisfaction, shall sign an indemnification clause, and shall name the Town additional insured.

NOW THEREFORE BE IT RESOLVED, that the Town Board authorize the Supervisor to sign the Right of Entry form for 4699 Lake Avenue and for the Town Engineer to coordinate with Erie County DSM as needed throughout the project.

ATTACHMENTS:

[03-09-26 Tn Hmbg-ROE.pdf](#)

[D3C83_PropFiberglassCIPP_Map.pdf](#)

RIGHT-OF-ENTRY

PARCEL 151.15-4-7

KNOW ALL MEN BY THESE PRESENTS

**Town of Hamburg
6100 South Park Ave
Hamburg N.Y. 14075**

That I (We) of the Town of Hamburg, County of Erie, State of New York,
owner of lands located at 4699 Lake Ave in the Town of Hamburg
COUNTY OF ERIE, and designated as SBL No. 151.15-4-7, do hereby
agree to allow the County of Erie, its' employees, representatives and designated
contractors, to enter upon said land for the purpose of:

Ingress & Egress from Lake Avenue to televise, clean and CIPP 1,800 LF of 21" & 30"
diameter pipe located on said property. Any areas disturbed while work was being
performed will be restored to the satisfaction of the Town of Hamburg

and hereby release said employees, representatives, contractors and the County of Erie, of
being liable for trespass, and do hereby waive any and all claims for such entry or
occupation.

Permission for right-of-entry expires on December 31, 2026

L.S.

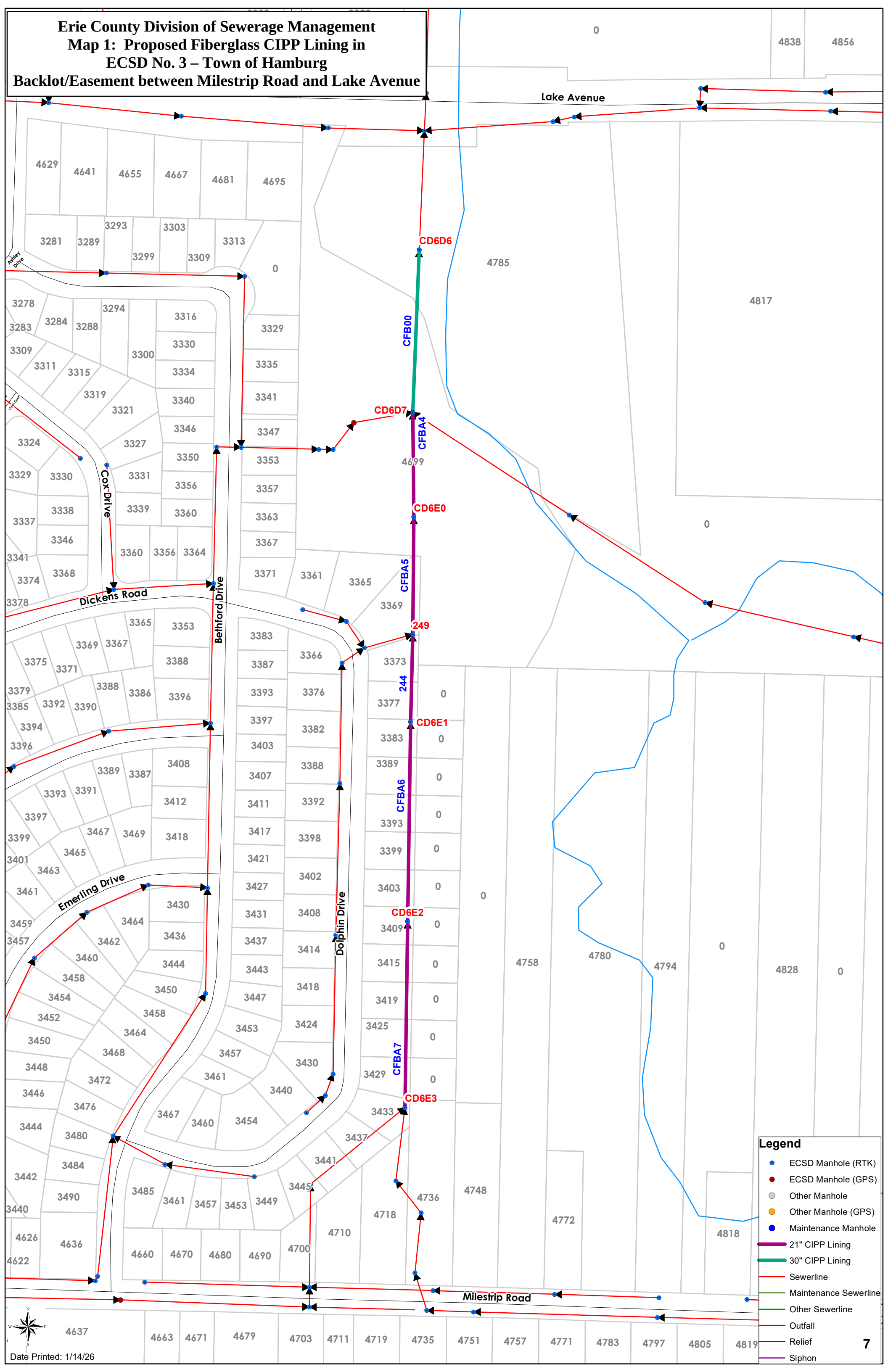
Title

Phone # _____

Dated _____

In Presence of: _____

Erie County Division of Sewerage Management
Map 1: Proposed Fiberglass CIPP Lining in
ECSD No. 3 – Town of Hamburg
Lot/Easement between Milestrip Road and Lake A



Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.5. Buffalo Bills Stadium Economic & Multimodal Corridor Revitalization Project

WHEREAS, the 2025 NYSDOT Transportation Alternatives Program (TAP) is offering \$97.4 million in new funding for the development of community centered transportation systems that will connect communities, enhance the quality of life, protect the environment, and support the economic well-being of New York State, and

WHEREAS, the TAP project award shall be no less than \$500,000, no greater than \$7.0 million for any single project, and NYSDOT will provide up to 80% of the total eligible project costs with a minimum 20% match provided by the local project sponsor, and

WHEREAS, the Buffalo Bills Stadium Economic & Multimodal Corridor Revitalization Project will construct multimodal enhancements in an underutilized primary economic corridor adjacent to the new Buffalo Bills Stadium and will serve as a catalyst for the redevelopment of the ECC South and McKinley Mall properties. ,

NOW, THEREFORE, IT IS HEREBY RESOLVED, as follows the Hamburg Town Board authorizes EECG Consulting, LLC to prepare and submit the grant application to the New York State Department of Transportation (NYSDOT), and

BE IT FURTHER RESOLVED, that if the grant is awarded, the Town of Hamburg will commit to the 20% local match required for the development and implementation of the proposed project, additionally, the Town of Hamburg will designate EECG Consulting, LLC to manage the grant on behalf of the Town of Hamburg, and

BE IT FURTHER RESOLVED, that all project costs will be initially funded from the Town of Hamburg General Fund Balance (A000-0000-0909-0000), pending reimbursement from the awarded grant funds and the 20% local match of \$956,100 will be fully funded by the General Fund balance (A000-0000-0909-0000).

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.6. Authorization for Highway Department on Drainage

WHEREAS, per New York Town Law 64.11-a., the Highway Department requires a Town Board resolution to authorize them to perform drainage work outside the public right-of-way; and

WHEREAS, the Town has drainage easements and Town properties that require improvement of drainage features for the benefit of town property and infrastructure and to protect property within the town from flooding and the Town will see cost savings by using Town forces to address these issues.

NOW THEREFORE BE IT RESOLVED, that the Town Board authorizes the Highway Department to perform work outside of the public right-of-way for drainage improvements on an as-needed basis and as coordinated with the Engineering Department.

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.7. Youth, Recreation, & Senior Services PAF

BE IT RESOLVED, that the Town Board approve the termination and hiring of personnel for the Youth, Recreation & Senior Services Department as follows:

ATTACHMENTS:

[scan_2026_03_05_10_53_06_100.pdf](#)

Date of Request: 3/5/26
Department: Youth, Recreation, Senior Services

Date of Request:

Department Head Signature:

Supervisor Signature:

10

Date:

TOWN BOARD MEETING OF 3/9/26

3/9/26

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of

of

I request that a Town Board Resolution be adopted approving the following personnel action:

[illegible]

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.8. Finance and Administration PAF

BE IT RESOLVED, that the Town Board approve the hiring of Lily Mackiewicz to the fulltime Managerial Confidential probational position of Account Clerk (Civil Service list #42351010) in the Department of Finance and Administration at \$22/per hr. The appointment, effective 3/9/2026, is subject to all preconditions of employment including but not limited to a pre-employment physical.

Funds are available in A.1430 and A.1310.

ATTACHMENTS:

[DOC030526-001.pdf](#)

TOWN OF HAMBURG - PERSONNEL ACTION FORM

Date of Request: 3/9/2026

Department: Finance and Administration

Department Head Signature P. A. [Signature]

Supervisor Signature _____ Date: _____

TOWN BOARD MEETING OF 3/9/2026

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I request that a Town Board Resolution be adopted approving the following personnel action:

#	Emp #	Emp Name	N or R	Position	Start date	Full time		PT/Sea/temp	
						hrly rate	hrly rate	hrly rate	Term date
1	5347	Lily Mackiewicz		Account Clerk	3/9/2026	\$22.00			
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rev 03/14

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.9. Resolution Authorizing a Service Contract with CivicPlus for DocAccess ADA Accessibility Software

WHEREAS, the Town of Hamburg is currently under contract with CivicPlus, the Town's website vendor, and

WHEREAS, the Town is committed to ensuring equal access to programs, services, and information for individuals with disabilities in accordance with the Americans with Disabilities Act (ADA) and related federal regulations; and

WHEREAS, the U.S. Department of Justice has issued updated regulations and guidance regarding accessibility requirements, including enhanced standards for digital accessibility and program access under Title II of the ADA; with a deadline of April 26, 2026, and

WHEREAS, CivicPlus has recommended the implementation of DocAccess, a proprietary software solution designed to automate document accessibility compliance, including the remediation of PDF and digital documents, the generation of accessible transcripts and alternative formats, and ongoing monitoring to maintain accessibility compliance; and

WHEREAS, the cost for the remainder of 2026 is being offered at a prorated rate of \$6,556.99, with a recurring annual renewal cost thereafter of \$14,997.20, subject to applicable annual price adjustments,

NOW, THEREFORE BE IT RESOLVED, that the Town Board approves authorizing the Supervisor to sign the service contract with CivicPlus for the implementation of the DocAccess software solution. Funds are available in Account A.1690.423.

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.10. Renewal of Livestreaming Services Contract

WHEREAS, the Town Board of the Town of Hamburg recognizes the importance of providing residents with accessible and transparent government operations; and

WHEREAS, livestreaming and archiving of Town Board meetings allows the public to observe meetings remotely and improves public access to municipal proceedings; and

WHEREAS, the Town utilizes livestreaming technology and related services obtained through Carahsoft to facilitate the broadcasting and recording of Town Board meetings; and

WHEREAS, the Town Board has determined that it is in the best interest of the Town to maintain these livestreaming services to ensure continued public access; and

WHEREAS, the agreement for these services is structured as an annually recurring contract and is subject to renewal.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes the Town Supervisor to sign the annual renewal contract with

Carahsoft in the amount of \$37,747.11. Funds are available in Account A.1690.423.

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.11. Request RFP for Hamburg Town Park Concessions

BE IT RESOLVED, the Town Board authorizes the Youth, Recreation and Senior Services Department to put out a Request for Proposal (RFP) for the operation of the concession stand at the Hamburg Town Park Beach pending approval from the Town Legal Department and Insurance Consultant The new contract would be set up for the Summer Seasons of 2026 & 2027, with an option for the 2028 season.

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.12. Request RFP for Hamburg Town Arena Pro-Shop and Concessions

BE IT RESOLVED, the Town Board authorizes the Youth, Recreation and Senior Services Department to put out a Request for Proposal (RFP) for the operation of the pro-shop and concession stand at the Hamburg Town Arena pending approval from the Town Legal Department and Insurance Consultant. The new contract would be set up for the 2026-2027,2027-2028 seasons with an option for the 2028 - 2029 season.

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.13. Fee Reimbursement

BE IT RESOLVED that a check in the amount of \$149.66 be issued for full and final settlement of a fee reimbursement. Funds are available from Account No. A.1410.0451

Town Board of the Town of Hamburg
March 9, 2026 Meeting

4.14. Local Law Amendment

WHEREAS, the Hamburg Town Code contains and specifies the local laws and ordinances of the Town of Hamburg; and

WHEREAS, the Code Review Committee and Erie County have reviewed “Chapter 31 Historic Preservation Commission” and has sent these suggested revisions to the Town Board to begin the adoption process; and

WHEREAS, pursuant to Municipal Home Rule Law, the Town Board is proposing to enact a local law as follows:

Be it enacted by the Town Board of the Town of Hamburg, New York, that the Hamburg Town Board amends the Hamburg Town Code as follows (full copies attached):

Amend Chapter 31, currently entitled “Historic Preservation Commission”

NOW, THEREFORE, BE IT RESOLVED, the Hamburg Town Board hereby entertains this proposed local law amendment and sets a public hearing for March 23rd, 2026, at 7 pm in the Court Room of Hamburg Town Hall.

ATTACHMENTS:

[DOC030626-002.pdf](#)

Chapter 31 Historic Preservation Law

§ 31-1	Title.
§ 31-2	Statutory authority.
§ 31-3	Purpose.
§ 31-4	Definitions.
§ 31-5	Historic Preservation Advisory Board regulations.
§ 31-6	Designation of historic landmarks, sites and districts.
§ 31-7	Certificates of appropriateness required.
§ 31-8	Criteria for approval of certificate of appropriateness.
§ 31-9	Application for certificate of appropriateness.
§ 31-10	Hardship criteria.
§ 31-11	Hardship application procedure.
§ 31-12	Maintenance and repair required.
§ 31-13	Administration; enforcement; display of certificate.
§ 31-14	Penalties for offenses.
§ 31-15	Appeals.
§ 31-16	Conflict with other provisions.
§ 31-17	Compliance required prior to action.
§ 31-18	Applicability.
§ 31-19	Severability.
§ 31-20	When effective.

§ 31-1 Title.

This chapter shall be Chapter **31** of the Code of the Town of Hamburg and may be cited as the "Historic Preservation Law of the Town of Hamburg."

§ 31-2 Statutory authority.

In accordance with General Municipal Law § 96-a, entitled "Protection of historical places, buildings and works of art," and Article 5-k of the General Municipal Law, entitled "Historic Preservation," the Town Board of the Town of Hamburg has the authority to provide, by local law, regulations, special conditions and restrictions, for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art and other objects having special character or special historical or other aesthetic interest or value. Pursuant to that authority, the Town Board has

prepared and adopted this chapter setting forth standards to be followed in historic preservation.

§ 31-3 Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded in its past, and inasmuch as Hamburg has many significant historic, architectural and cultural resources which constitute its heritage, this chapter is intended to:

- A. Protect and enhance the landmarks and historic districts which represent distinctive elements of Hamburg's historic, architectural and cultural heritage.
- B. Foster civic pride in the accomplishments of the past.
- C. Protect and enhance Hamburg's attractiveness to visitors and support and stimulate the Town's economy.
- D. Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in education programs.

§ 31-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADAPTIVE REUSE

Conversion of a building originally designed for a certain purpose to a different purpose.

ALTER

To change one or more exterior architectural features of a landmark, and improvement on a landmark site or a structure within an historic district.

BUILDING

Any structure or part thereof having a roof supported by columns or walls for the shelter or enclosure of persons or property.

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Hamburg Town Board approving plans for the alteration, construction, removal or demolition of a landmark, an improvement to a landmark site or a structure within an historic district, and contingent upon all other necessary planning, zoning, and building code approvals.

CONSTRUCTION

Building an addition or making an alteration to an existing structure or building a new principal or accessory structure.

DEMOLITION

Destruction of a building, structure or improvement.

EXTERIOR

Architectural style, design, general arrangement and components of the outer surfaces of an improvement, building or structure as distinguished from the interior surfaces, including, but not limited to, the kind and texture of building material and the type and style of windows, doors, signs and other such exterior fixtures.

FACADE

The exterior of a building or structure that can be viewed.

HISTORIC DISTRICT

A geographically definable area so designated pursuant to this code.

IMPROVEMENT

Any building, structure, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment or any part thereof.

LANDMARK

Property, object, structure or natural feature or any part thereof so designated pursuant to this code.

LANDMARK SITE

A significant historical or cultural site where buildings or structures no longer exist, so designated pursuant to this code.

OWNER

A person, firm or corporation which has fee ownership of property or a lesser ownership interest therein, a mortgagee or vendee in possession, a receiver, an administrator, an executor, a trustee, or any other person, firm or corporation in control of property.

PRESERVATION

Retention of essential character of an improvement, object, building, natural feature or structure as embodied in its existing form, integrity and material. This feature includes the retention of trees, landscaping and vegetation of a site. This term may include temporary stabilization work, as well as ongoing maintenance of historic building materials.

HISTORIC PRESERVATION ADVISORY BOARD, PRESERVATION BOARD or BOARD

The Town of Hamburg Historic Preservation Advisory Board.

PROPERTY

Land and improvements thereon.

RECONSTRUCTION

Reproduction of the exact form and detail of a vanished building, structure, improvement or part thereof as it appeared at a specific time.

REHABILITATION

Repair or alteration that enables buildings, structures or improvements to be efficiently utilized while preserving those features of buildings, structures or improvements that are significant to their historic, architectural or cultural values.

RESTORATION

Recover of the form and details of a building, structure or improvement and its site during a particular time.

SITE

A plot or parcel of land.

STRUCTURE

Anything constructed or erected which requires permanent or temporary location on the ground. The term shall include, but not be limited to, buildings, walls, fences, signs, billboards, lighting fixtures, screen enclosures and works of art.

SUPERVISING CODE ENFORCEMENT OFFICER

The Supervising Code Enforcement Officer of the Town of Hamburg.

TOWN

The Town of Hamburg, County of Erie, State of New York.

TOWN BOARD

The Town Board of the Town of Hamburg, Erie County, New York.

TOWN CLERK

The Town of Hamburg Town Clerk.

§ 31-5 Historic Preservation Advisory Board regulations.

- A. There is hereby created a volunteer Board to be known as "The Town of Hamburg Historic Preservation Advisory Board."
- B. The Preservation Board shall consist of no less than seven and no more than nine members. The Town of Hamburg shall be the primary residence of each Board member. Board members, (except for the Town Historian) shall serve a term of two years. Members shall serve without compensation. In addition to the members, there shall be an attorney appointed from the Town of Hamburg Legal Department to act in an advisory capacity to the Board.
- C. Appointment of Preservation Board members shall be made by the Town Board.
- D. To the extent available in the Town of Hamburg, the Preservation Board should consist of the following:
 - 1) All members shall have a known interest in, and shall have demonstrated significant interest and commitment to the field of historic preservation, evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field.
 - 2) At least one member shall be the Town Historian, appointed annually;
 - 3) At least two members shall be representatives of the Hamburg Historical Society.
 - 4) At least one member shall be a licensed NYS Realtor.

- E. The Chairperson and Vice Chairperson shall be elected by and from voting members of the Preservation Board. The term of office shall be two years. If the Chairperson or Vice Chairperson cannot fulfill his or her term of office, a successor shall be elected by and from the membership of the Board to fulfill the remainder of the term until the next regular election.
- F. If any Board Member shall resign or otherwise cannot fulfill his or her term of office, the Town Board shall appoint an interim member to serve the remainder of the term.
- G. The Vice Chairperson shall ensure that minutes of all Board meetings are suitably recorded, prepared and distributed.
- H. The powers of the Preservation Board shall include:
 - 1) To recommend designation of historic landmarks, sites and districts to the Town Board for its consideration.
 - 2) To advise and make recommendations at the request of the Town Board on matters of employment of staff and professional consultants as necessary to carry out the duties of the Board.
 - 3) To make recommendations at the request of the Town Board regarding criteria for the identification of significant historic, architectural and cultural landmarks and/or the delineation of historic districts.
 - 4) To make recommendations to the Town Board regarding surveys of significant historic, architectural and cultural landmarks within the Town.
 - 5) To increase public awareness of the value of historic, architectural and cultural preservation by developing and participating in education programs.
 - 6) To advise the Town Board concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town.

- 7) To advise the Town Board acquisition of a landmark or structure by the Town where its preservation is essential to the purposes of this chapter and where private preservation is not feasible.
 - 8) To assist the Supervising Code Enforcement Officer in the advisement to the Town Board approval or disapproval of applications for certificates of appropriateness, subject to review and approval by the Supervising Code Enforcement Officer.
- I. The Board shall meet at least once quarterly.
 - J. A quorum for the transaction of business shall consist of a majority of the fully authorized membership of the Board.
 - K. Any and all advisory opinions or recommendations made to the Town Board shall include a list of all members present at the meeting where such advice or recommendation was authorized.

§ 31-6 Designation of historic landmarks, sites and districts.

- A. The Preservation Board may recommend designation of an individual property as a landmark, subject to Town Board approval, if it:
 - 1) Is associated with the lives of individuals or people or events significant in the national, state or local history.
 - 2) Embodies the distinctive characteristics of a type, period or method of construction.
 - 3) Represents the work of a master architect or designer or possesses high artistic values.

- 4) Represents a significant or distinguished entity whose components may lack individual or special distinction.
 - 5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The Preservation Board may recommend designation of a property or a group of properties as an historic site, subject to Town Board approval, if it contains significant historical or cultural sites where buildings or structures no longer exist, such as a battlefield, cemetery or former transportation facility; or sites which may yield information important to area history or prehistory.
- C. The Preservation Board may recommend designation of a group of properties as an historic district, subject to Town Board approval, if it:
- 1) Contains properties which meet one or more of the criteria for designation as a landmark; or
 - 2) Is an area that represents several periods or styles of architecture typical of different areas of history; or
 - 3) Is an area that has several buildings of the same architectural period or style and thus constitutes unified architectural streetscape consistency or a significant community uniformity of style; or
 - 4) Is an area connected with significant events or cultural occurrences or developments involving ethnic, religious groups or other groups of special historical interest; and
 - 5) By reason of possessing such qualities, constitutes a distinct section of the Town of Hamburg.

- D. The boundaries of each proposed historic district designated henceforth shall be specified in detail and shall be published on the Town website for public inspection.
- E. Notice of a proposed designation shall be sent by the Town Clerk to the owner(s) of any property(ies) proposed for historic designation at least 30 days prior to a meeting open for public discussion. The notice shall describe the property proposed for designation, summarize the proposed action and announce the date, time and location of the meeting. A copy of the notice of proposed designation shall also be sent to the Town Board, and the Supervising Code Enforcement Officer.
- F. The notice of proposed designation shall also be sent to the Town of Hamburg Highway Department, the Town of Hamburg Engineering Department, the Town of Hamburg Planning Department, the Town of Hamburg Assessor, Preservation Buffalo Niagara and any other Town department and/or county or state agency as appropriate. Each department/agency shall be given 60 days from the date of transmission to provide comments on the proposed designation to the Historic Preservation Advisory Board.
- G. The Preservation Board shall hold a meeting open for public discussion prior to recommending to the Town Board designation of any landmark, historic site or historic district. The Board, the property owner and any interested parties may present testimony and documentary evidence at the meeting which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the meeting. A notice of the meeting shall be published on the Town website at least 30 days prior to the meeting.

- H. Upon the affirmative vote of a majority of the fully authorized membership of the Preservation Board, the Board will recommend to the Town Board the designation of an historic landmark, site or district. The Town Board will review the Preservation Board's recommendation for designation of an historic landmark, site or district and determine whether to take any further action on the recommendation. If the Town Board chooses to take further action, the Town Board will conduct a public hearing on at least 60 day written notice to any owner of property being considered for designation prior to designation of any historic landmark, site or district. A public hearing notice must be published by the Town Clerk in the Town's designated official newspaper at least 30 days prior to the hearing date.
- I. The Town Board shall file notice of each property designated as a historic landmark, site or district and of the boundaries of each designated historic district with the Erie County Clerk's Office, the Town of Hamburg's Clerk's Office, the Town of Hamburg Building Inspection Department, the Town of Hamburg Planning Department, the Town of Hamburg Highway Department, the Town of Hamburg Engineering Department, and the Town of Hamburg Assessor.
- J. Minutes of any business conducted by the Historic Preservation Advisory Board shall be posted to the Town's website.

§ 31-7 Certificates of appropriateness required.

No person shall carry out any exterior alteration, restoration, reconstruction, excavation, grading, demolition, new construction or moving of a designated landmark or property within an historic district, nor shall any person make any material change to such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements which affect the appearance or cohesiveness of the landmark or historic district without first obtaining a certificate of appropriateness from the Town Board. The Historic Preservation Advisory Board shall advise the Supervising Code Enforcement

Officer who will then make recommendations to the Town Board regarding any applications for a certificate of appropriateness.

§ 31-8 Criteria for approval of certificate of appropriateness.

- A. In passing upon an application for a certificate of appropriateness, the Town Board shall not consider changes to the interior of buildings.

- B. The Town Board's decision shall be based upon the following principles:
 - 1) Features which contribute to the character of the historic landmark or district shall be retained with as little alteration as possible.

 - 2) Any alteration of existing features shall be compatible with its historic character as well as with the surrounding property.

 - 3) New construction shall be compatible with the property in which it is located and/or the surrounding historic district.

- C. In applying the principle of compatibility, the Town Board shall consider the following factors:
 - 1) The general design, character and appropriateness to the property of the proposed alteration or new construction.

 - 2) The scale of proposed alteration or new construction in relation to itself, surrounding properties and the neighborhood.

 - 3) Texture, materials and color and their relation to the property itself, surrounding properties and the neighborhood.

- 4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setbacks.
- 5) The importance of historic, architectural or other features to the significance of the property.

§ 31-9 Application for certificate of appropriateness.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the Supervising Code Enforcement Officer for review by the Town Board. The application shall contain:
- 1) The name, address and telephone number of the applicant.
 - 2) The location and photographs of the property.
 - 3) Elevations drawings of proposed changes, if available.
 - 4) Perspective drawings, including the relationship to adjacent properties, if available.
 - 5) Samples of color and/or materials to be used.
 - 6) Where the proposal includes signs or lettering, a scale drawing showing the type(s) of lettering to be used, all dimensions and colors, a description of materials to be used, the method of illumination and a plan showing the sign's proposed location on the property.

(7) Any other information deemed necessary in order to visualize the proposed work.

B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Town Board. The Town Board shall act to approve or deny a certificate of appropriateness within 65 days of the date upon which a completed application is filed with the Town Board. If the application is not acted upon within 65 days, the application shall be deemed approved. The applicant may request an extension of the decision date, if so desired. The certificate of appropriateness required by this chapter shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the Town of Hamburg.

§ 31-10 Hardship criteria.

A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:

- 1) The property is incapable of earning a reasonable return regardless of whether that return represents the most profitable return possible.
- 2) The property cannot be adapted for any other use permitted by Chapter 280, Zoning, which would result in a reasonable return.
- 3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable

of earning a reasonable return regardless of whether that return represents the most profitable return possible.

§ 31-11 Hardship application procedure.

- A. After receiving written notification from the Town Board of the denial of a certificate of appropriateness, an applicant may commence the hardship application process.
- B. The Town Board shall hold a public hearing on the hardship application, at which time an opportunity will be provided for proponents and opponents of the application to present their views.
- C. The applicant shall consult in good faith with the Town Board, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. All decisions of the Town Board shall be in writing. A copy shall be sent to the applicant by certified mail, and a copy shall be filed with both the Town Clerk's office and the Building Inspection Department. The Town Board decision shall state the reasons for granting or denying the hardship application.
- E. No building permit or demolition permit shall be issued while the hardship application is pending. The Town Board shall make a determination on whether a hardship exists. Building and demolition permits shall be issued in accordance with that determination.

§ 31-12 Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any architectural feature of a landmark or property within an historic district which does not involve a change in design, material, color or outward appearance.

B. No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any architectural feature which would, in the judgment of the Town Board, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

- 1) Deterioration of exterior walls or other vertical supports.
- 2) Deterioration of roof or other horizontal items.
- 3) Deterioration of exterior chimneys.
- 4) Deterioration or crumbling of exterior stucco or mortar.
- 5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- 6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety.

§ 31-13 Administration; enforcement; display of certificate.

- A. Administration. The Supervising Code Enforcement Officer shall administer and enforce the provisions of this chapter. In connection with overseeing this responsibility, the Supervising Code Enforcement Officer shall provide a permit procedure coordinated with the established building permit procedure.
- B. Enforcement. All work performed pursuant to this chapter shall conform to any requirements included herein. It shall be the duty of the Supervising Code Enforcement Officer to inspect periodically any such work to assure compliance.

In the event of a finding that the work is not being performed in accordance with the certificate of appropriateness, the Supervising Code Enforcement Officer shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as the stop-work order is in effect.

- C. The certificate of appropriateness shall be displayed on the building in a location conspicuously visible to the public while work pursuant to the certificate is being done.

§ 31-14 Penalties for offenses.

- A. Any person who violates any provision of this chapter or any regulation adopted hereunder is guilty of an offense punishable by a fine and/or penalty as set forth in the Schedule of Fines and Penalties. Each week's continued violation shall constitute a separate violation.
- B. Failure to comply with any provision of this chapter shall result in the termination of any permits issued or any proceedings commenced under provisions of this chapter.
- C. Any person(s) who demolishes, alters, constructs or permits a landmark to fall into a serious state of disrepair which results in a violation of this chapter shall be required to restore the property and its site to an appearance acceptable to the Town Board. Any action to enforce this subsection shall be brought by the Town Attorney upon authorization by the Town Board. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 31-15 Conflict with other provisions.

Where this chapter imposes greater restrictions than are imposed by the provisions of any law, ordinance or regulation, the provisions of this chapter shall apply. Where

greater restrictions are imposed by any law, ordinance or regulation, such greater restrictions shall apply.

§ 31-16 **Compliance required prior to action.**

No decision to carry out or approve an action subject to the provisions of this chapter shall be rendered by any department, board, committee, officer or employee of the Town of Hamburg until there has been full compliance with all requirements of this chapter. This shall not prohibit environmental, engineering, economic feasibility or other studies, preliminary planning or budgetary processes, nor the granting of an application relating only to technical specifications and requirements, but not authorizing commencement of action until full compliance with this chapter has been met.

§ 31-17 **Applicability.**

This chapter shall apply to the entire area of the Town of Hamburg, excluding that area within the corporate limits of the Village of Hamburg.

§ 31-18 **Severability.**

If any section, clause or provision of this chapter or the application thereof to any persons or entities is adjudged invalid, the adjudication shall not affect other sections, clauses or provisions of this chapter or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and, to this end, the various sections, clauses or provisions of this chapter are declared to be severable.

§ 31-19 **When effective.**

This chapter shall take effect immediately.