

TO: BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee recommends the adoption of “A LOCAL LAW amending Chapter 277, Article XV of the Laws of Westchester County relating to the Westchester County plumbing licensing law.”

You Committee is advised that, in 1993, Section 236 of the New York State County Law was enacted by the New York State Legislature, authorizing the County of Westchester to establish a Board of Plumbing Examiners that would be responsible for “the licensing, duties, and responsibilities of plumbers” within the County. Thereafter, in 1996, the Westchester County Board of Legislators enacted Article XV of the Laws of Westchester County, a County-Wide Plumbing Licensing Law, which also established the Board of Plumbing Examiners. The law provides the qualifications and procedures for obtaining a County-wide plumbing license, and grants the Board power to grant, suspend, or revoke plumbing licenses.

Your Committee is advised that since the passage and implementation of the law in 1996, it has remained relatively unchanged. The proposed amendments seek, among other things, to ensure the public health by improving the way the Board functions, providing applicants with additional ways

to qualify for a plumber's license, and ensuring that licensed plumbers are directly supervising projects for compliance with the New York State Plumbing Code.

Your Committee notes that, for example, proposed Sec. 277.504 increases the number of board members by one member, and modifies the requirements for members, which would make the Board more diverse and ease the process of filling open positions; proposed Sec. 277.505 and 277.510-B provide for an Administrative Law Judge to preside over hearings (and the procedure for such hearings) to avoid the possibility of Board members having potential conflicts with parties based upon prior or existing relationships and to expedite the administrative hearing process; proposed Sec. 277.507-A allows an applicant to satisfy the proof of employment requirement with prior experience obtained through education and military service; while proposed Sec. 277.513(A) increases the penalty structure to deter unlicensed plumbing activity in the County of Westchester.

Your Committee is further advised that the proposed amendments reflect the experience gained during the last 26 years since the Board of Legislators enacted the Plumbing Licensing Law, as well as the evolution of the plumbing trade in Westchester County. The implementation of these amendments will modernize the Plumbing Licensing Law and better protect consumers.

Your Committee is informed that the proposed Local Law does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 8, 2024, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: October 21, 2024  
White Plains, New York

       Legislation	      Economic Development COMMITTEE ON	      Labor & Human Rights
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jsw-10/03/2024

# FISCAL IMPACT STATEMENT

SUBJECT: Amend Plumb. Lic. Law CH 277-XV

☐ NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense N/A

Total Current Year Revenue N/A

Source of Funds (check one): ☐ Current Appropriations ☐ Transfer of Existing Appropriations

☒ Additional Appropriations

☐ Other (explain)

Identify Accounts: REVENUE - 25-0200-0200-101-9542

EXPENSE - 25-0200-0200-101-4420

Potential Related Operating Budget Expenses: Annual Amount \$5,000

Describe: Administrative Law Judge to preside over Hearings

Potential Related Operating Budget Revenues: Annual Amount \$77,500

Describe: Plumbing increase to Licensing Fees for Master Plumbers and Journeymen

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Vincent A. Cassels

Title: Senior Inspector

Department: Consumer Protection

Date: October 7, 2024

10/10/24  
Reviewed By:

[Signature]  
Budget Director

Date:

10/7/24

LOCAL LAW INTRO. NO. 2024

A LOCAL LAW amending Chapter 277, Article XV of the Laws of Westchester County relating to the Westchester County plumbing licensing law.

BE IT ENACTED by the County Board of the County of Westchester as follows:

**Section 1.** Section 277.502 of the Laws of Westchester County is hereby amended to read as follows:

For the purposes of this article, the following terms shall have the meanings indicated, unless as otherwise indicated by context. Nothing contained in any definition in this article shall be construed as defining, limiting or establishing the activities, operations or jurisdiction of any union, group or association of employees, nor establishing what work is to be done by any such union, association or group of employees.

1. *Apprentice plumber.* A person who is learning the plumbing trade under the direct supervision and control of a licensed master plumber or under the direct supervision and control of a licensed journey level plumber who is employed by and on the payroll of a licensed master plumber.

2. *Board.* The County Board of Plumbing Examiners created by this article.

3. *Certificate of competency.* A certificate issued by the Board of Plumbing Examiners to those persons who have successfully completed the examination for master plumber.

4. *Direct supervision.* The license holder(s) is physically present at a work site and/or immediately available via telephone or other electronic communication means.

~~5.4.~~ *Journey level plumber.* A person who is employed by and under the direction of a licensed master plumber, who has completed an apprenticeship as is required herein and who has successfully completed an examination for certification as a journey level plumber.

~~6.5: Master plumber.~~ Any person who engages in or carries on the business of plumbing, as defined herein.

~~7.6: Plumbers task force.~~ Two (2) representatives of the Boards of Directors of each of the professional and labor associations representing the men and women of the plumbing and/or plumbing inspection trades in Westchester County who sit as a task force at the call of the County Executive when needed to recommend appointments to the County Plumbing Board of Examiners as provided for in this article.

~~8.7: Plumbing.~~ The business of plumbing is such plumbing work as specifically defined for each municipality within the county in any local ordinances or codes governing plumbing work in effect in such municipality. In the absence of such local plumbing work ordinances and codes, the business of plumbing shall include those activities described in the definition of “plumbing” set forth in the New York State Plumbing Code and the activity of installing piping, valves or fittings on a premises or in a building that will be utilized to convey natural gas from the outlet of the point of delivery to the equipment. However, unless specifically provided for in local plumbing work ordinances or codes or in the New York State Uniform Fire Prevention and Building Code, underground utility construction shall not be construed as plumbing.

~~9.8: Underground utility construction.~~ The practice of installing, maintaining and repairing underground piping for gas and fuel distribution, sanitary and storm drainage, public and private water supply and footing drains outside of any building, unless a local ordinance or code expressly provides for any such practice or practices to be plumbing work.

**Section 2.** Section 277.504 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.504. - Board of Plumbing Examiners.**

~~A. There shall be a County Board of Plumbing Examiners consisting of ten members, who shall be residents of the State of New York and who shall be appointed as follows:~~

- ~~1. Three master plumbers who possess Westchester master plumber licenses and ten years' experience as a plumbing contractor in the plumbing business in the County of Westchester and who are recommended to the County Executive by the Plumbers Task Force. Such candidates shall be appointed by the County Executive subject to confirmation by the County Board of Legislators.~~
- ~~2. Two certified journey-level plumbers with at least ten years of experience at the journey level in the County of Westchester and who are recommended to the County Executive by the Plumbers Task Force. Such candidates shall be appointed by the County Executive subject to confirmation by the County Board of Legislators.~~
- ~~3. Two plumbing code enforcement officials with at least five years' experience as an active plumbing code enforcement official employed in Westchester County and each possessing a Westchester County master plumber's license or certificate of competency who shall be recommended to the County Executive by the Plumbers Task Force. Such candidates shall be appointed by the County Executive subject to confirmation by the County Board of Legislators.~~
- ~~4. One member from county government licensed by the State of New York as a professional engineer who shall be appointed by the County Executive subject to confirmation by the County Board of Legislators.~~
- ~~5. One member at large representing the general public who shall be recommended to the County Executive by the Chairman of the Board of Legislators. Such member shall be appointed by the county executive subject to confirmation by the County Board of Legislators.~~

~~6. One member who is employed by a local municipal government department of public works or its equivalent office. Such member shall be recommended to the County Executive by the Chairman of the County Board of Legislators. Such candidate shall be appointed by the County Executive subject to confirmation by the County Board of Legislators.~~

A. There shall be a County Board of Plumbing Examiners consisting of 11 members, who shall be residents of the State of New York and who shall be appointed by the County Executive subject to confirmation by the Westchester County Board of Legislators:

1. Three members, who each possess a Westchester master plumber license and ten years' experience as a plumbing contractor in the plumbing business in the County of Westchester, shall be chosen from among several recommended by the Plumbers Task Force.
2. Three members, who each possess journey level plumber's certifications with at least ten years' experience at the journey level in the County of Westchester, shall be chosen from among several recommended by the Plumbers Task Force.
3. One member, a plumbing code enforcement official with at least five years' experience as an active plumbing code enforcement official employed in Westchester County and possessing a Westchester County master plumber's license or certificate of competency, shall be chosen from among several recommended by the Plumbers Task Force.
4. One member, a county official or county employee licensed by the State of New York as a professional engineer.
5. Two members of the general public who are not members of the engineering or plumbing profession, shall be chosen from several recommended by the Chair of the Westchester County Board of Legislators.

6. One member, employed by a local municipal government department of public works or its equivalent office, shall be chosen among several recommended by the Chair of the Westchester County Board of Legislators.
7. Of the members first appointed, two shall be appointed for terms of two years, and three shall be appointed for a term of three years, and five shall be appointed for a term of five years. Their successors shall be appointed for terms of five years from and after the expiration of the terms of their predecessors in office.

**Section 3.** Section 277.505 of the Laws of Westchester County is hereby amended as follows:

**Sec. 277.505. - Powers and duties of the board.**

The board shall have the following powers and duties in addition to those elsewhere prescribed in this ~~a~~Article.

- D. The board may suspend and revoke licenses for cause as prescribed in this ~~a~~Article. The board may issue and cause to be served subpoenas in the manner provided for in the Civil Practice Law and Rules requiring the attendance of witnesses and the production of books, insurance records and policies, payroll records and papers relative to any hearing held by it upon complaint relative to this ~~a~~Article.
- E. The board may conduct hearings relating to any matter within its jurisdiction and shall refer all hearings in regards to violations of this chapter to an administrative law judge, who shall preside over the hearing and thereafter render a written report, containing findings and recommendations.

- ~~F. The board shall prepare and submit a report annually to the County Board of Legislators on or before the first day of July and keep all records of all Licenses issued, suspended or revoked by it and make such records available for public inspections, the same to be filed in the office of the Clerk of the Westchester County Board of Legislators.~~
- F. The board shall adopt rules and regulations with respect to proceedings before it and with respect to any subject matter over which it has jurisdiction under this ~~a~~Article, ~~and shall duly file the same with the Clerk of the Westchester County Board of Legislators.~~
- G. The board may make recommendations to the Westchester County Board of Legislators regarding plumbing regulations and codes pertaining thereto.
- H. The board may employ experts, clerks and a secretary and pay for their services and such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefor by the Westchester County Board of Legislators for such board.
- I. The board shall have the power to establish in its rules and regulations administrative fees for the submission of applications for licenses, certifications, renewals, and activities related to enforcement of this Article.
- J. The board shall appoint administrative law judges to preside at hearings conducted pursuant to this Article on a rotating basis from a list provided by the Law Department. Administrative law judges should be qualified by reason of experience and education including, but not limited to, experience and education as an attorney admitted to practice law in the State of New York.

Section 4. Section 277.506 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.506. – Issuance and renewal of licenses and certifications; classes of licenses; terms; fees; licenses and certifications for individuals licensed outside of Westchester County.**

- A. Issuances and renewals. The County Board of Plumbing Examiners may issue and renew a master plumber's license or certification. These instruments shall authorize the individual to engage in the business of master plumber or journey level plumber within the County of Westchester for the period ending the 31st of December of the year in which it is issued or renewed. Application for renewal is to be made 60 days prior to the expiration date of the license or certification. All applications for renewal shall be accompanied by the required renewal fee. If application for renewal is not made as provided herein, the board may, nevertheless, renew the license or certification in accordance with the board's rules and regulations, provided, further, that the applicant has satisfied the board as to his or her qualifications in accordance with said rules and regulations, including the assessing of a late fee, as set forth in in the boards rules and regulations, for renewing a license and/or certification after the expiration date of the license or certification.
- B. Classes, terms and fees. There shall be the following classifications of licenses and certifications with the following terms and fees:
1. Master plumber's license. After a candidate receives a certificate of competency as a master plumber, a license will be issued by the County Board of Plumbing Examiners to permit the performance of plumbing work with no restrictions in any city, town or village in the county. Such license is hereby required for all plumbing inspectors in cities within the county; however, such inspectors shall be exempt from annual renewal fees. ~~All applicants shall have successfully completed a four-year apprentice program with licensed master plumbers and have five years' experience at the journey level or have five years' apprenticeship in the employ of a licensed master plumber and have five years' additional experience as a journey level plumber in the employ of licensed master plumbers as the requirement for application.~~ All applicants shall have successfully completed 10 years of

experience in the business of Plumbing as defined by this Article as a master plumber or journey level plumber or an apprentice plumber in the employ and under the direct and continuing supervision of a licensed master plumber as the requirement for application.

The annual fee for a master plumber's license is ~~\$600.00~~\$500.00.

2. Journey level certification. This certification permits the journey level plumber to perform plumbing work under the direct supervision and in the employ of licensed master plumbers in any city, town or village in the county. The successful completion of (a) five years of experience in the business of Plumbing as defined by this Article in the employ of licensed master plumbers as an apprentice plumber or (b) the successful completion of a five-year plumbing apprentice program ~~is shall be~~ the requirement for application. The annual fee for a certification is ~~\$75.00, \$50.00.~~ ~~The effective date for the certification program is January 1, 1997.~~

**Section 5.** Section 277.507 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.507. Application for license or certificate.**

A.4. All applications for a county-wide master plumber's license or journey level certification shall be submitted on forms furnished by the board and shall be accompanied by the required fee, as herein provided. Each application shall set forth the name, residence address, business address, telephone numbers and trade name(s) of the applicant plus such additional information concerning his or her qualifications as the board may require. ~~Proof of employment may consist of, but is not limited to, income tax information, notarized statements of hours worked from employers or benefit funds, certified copies of licenses held as a master plumber, notarized statements demonstrating employment as a plumber,~~

~~plumbing apprentice training diplomas and any other proof that can justify working at the plumbing trade. All applicants must document their experience by providing one of the following:~~

- ~~1. Detailed social security earnings report.~~
- ~~2. Federal W-2's showing the applicant's name, the employer's name and the reported income from each employer that the applicant is claiming experience from.~~
- ~~3. Federal Schedule C or K-1 forms showing proof of business ownership if the applicant is self-employed and cannot produce items 1 or 2.~~

~~B. 2. The fee for each application under this Article shall be fifty dollars (\$50.00) for a master plumber's license and twenty-five dollars (\$25.00) for a journey level certification. The application fee is in addition to any other fee required to be paid under this Article. Fees imposed under this Article for such application shall not be refundable in the event of failure to pass the examination.~~

**Section 6.** Chapter 277, Article XV of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.507-A, - Credit for Education and Military Service for Master Plumber's License.**

An applicant shall be credited up to three (3) years toward the total years of experience required by this Article in Sec. 277.506(B) and Sec. 207.507(A) for a master plumber's license by submitting satisfactory proof establishing that the:

1. Applicant is New York State licensed professional (Registered Architect or Professional Engineer) or equivalent, who has at least seven (7) years of experience within the ten (10) years prior to application in the business of plumbing as defined by this Article in the employ and under the direct and continuing supervision of a licensed Master Plumber in the United States.

Proof of educational and professional licensure shall consist of official transcripts from the educational institution and letter(s) of good standing from the licensing agency;

2. Applicant has received a bachelor's degree in mechanical engineering or appropriate plumbing related engineering technology from an accredited college or university registered by the New York State Department of Education or equivalent and has had at least eight (8) years of total experience within the ten (10) years prior to application in the business of plumbing as defined by this Article in the employ and under the direct and continuing supervision of a licensed Master Plumber in the United States. Proof of educational and work experience shall consist of official transcripts from the educational institution and/or the documentation required by Sec. 277.507(A)(1) of this Article;
3. Applicant has obtained experience in the business of plumbing as defined by this Article or in an area related to plumbing while serving in any branch of the United States Military shall be credited with practical experience equal to 25 percent of the number of military years they have satisfactorily completed, which, in no event, however, shall exceed three (3) years of credit. Proof of experience shall consist of documentation issued by the United States Department of Defense, such as a DD Form 214 or equivalent, detailing an applicant's military job specialty, training and/or qualifications; and/or
4. Applicant has obtained experience in the business of plumbing as defined by this Article or in an area related to plumbing, in a country other than the United States, while acting in accordance with the laws, regulations, and licensing requirements applicable in that jurisdiction, which shall be credited with practical experience equal to 25 percent of the number of years of experience, which, in no event, however, shall exceed three (3) years of credit. Applicant shall be required to provide proof of experience satisfactory to the Board of

Plumbing Examiners, and shall be required to provide certified translations of any documents not in English.

**Section 7.** Section 277.508 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.508. - Examination; exceptions.**

- A. The examination for a county-wide master plumber's license ~~or journey-level certification~~ shall consist of a written and a practical test; the examination for a journey level certification shall consist of a written test only. A complete record of every examination shall be kept on file until three years after the day of the examination. Examinations shall be held at such times and places as the board may fix or otherwise arrange. The board may designate or contract with an outside organization to create and administer the examination.
- B. ~~(1) An applicant who fails an examination shall be eligible for re-examination at the next scheduled examination date.~~ An applicant who has failed his or her first examination shall not be eligible for re-examination until at least one month from the date of such failure. An applicant who fails two times or more shall not be eligible for further re-examination until at least six months have elapsed from the date of such second or subsequent failure.  
~~(2) An applicant who fails three examinations shall be required to submit a new application with a new license fee.~~
- C. Applicants must submit a completed license application within one year of receiving a passing grade on the examination. Any applicant who does not apply within one year shall be required to re-take the examination.
- D. Applicants shall pay all costs associated with taking the practical test.

**Section 8.** Section 277.509 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.509. - Unlawful use of license or certification; display.**

- A. No holder of a license or certification issued under this [a]Article shall authorize, consent to or permit the use of his or her license or certification by or on behalf of any other person. No person who has not qualified or obtained a license or certification under this aArticle shall represent himself or herself to the public as holder of a license or certification issued under this aArticle. No person shall offer, solicit, or bid plumbing work, either directly, by means of signs, sign cards, metal plates-or, stationery, or use of the word plumbing in their company name unless they are licensed pursuant to this Article~~indirectly in any other manner whatsoever~~. However, nothing herein shall be construed to prohibit the use of a license by the holder thereof for or on behalf of a partnership, corporation or other business association, provided that 51 percent or more of the control of the voting capital stock of such partnership, corporation or other business association is owned by one or more holders of a Westchester County master plumbing license and that all work performed by such partnership, corporation or other business association is performed by or under the direct supervision<sub>2</sub> of such license holder or holders.
- B. Whenever a licensed master plumber representing a plumbing business which operates under a trade, partnership or corporate name severs his or her relationship with such business, it shall be the duty of both the licensee and the business to notify the board of such action within 30 days from the date thereof. Failure to do so shall be deemed sufficient cause for denying a new license to the licensee and prohibiting the firm to continue in the plumbing business.

- C. All licenses and certificates shall be numbered in the order in which they are issued and shall be in such form and of such color and shall contain such information as may be prescribed by the board.
- D. Each license shall at all times be kept conspicuously displayed in the place of business of the licensee, and each identification card for master plumber or certified journey level plumber shall be available for inspection at all times.
- E. ~~Each licensee shall affix to the passenger-side front ventilator window of all vehicles owned, leased or used for the performance of the trade or, if the vehicle is not equipped with a ventilator, the right front corner of the right window of each vehicle used in his or her business a decal furnished by the board indicating the Westchester County license number. All such vans or trucks shall also prominently display the name of the licensee and the business organization.~~ For vehicles used in connection with all licensed activities under this Article:
1. Licensee shall conspicuously affix a decal furnished by the board to each vehicle used for his or her business in connection with licensed activities during the effective term of the license.
  2. Decals shall be available for a fee of \$5.00 each. All such vehicles shall also conspicuously display the company name, address, and applicable license number(s) that are registered with the County of Westchester.
  3. Vehicle lettering shall be no smaller than two (2) inches tall or 144-point type in bold print. Vehicle lettering shall be in letters and numerals readily legible from a distance of fifty feet during daylight hours and while the motor vehicle is stationary.
  4. Signage shall be required on both side panels of all vehicles.
  5. All vehicles must comply with applicable New York State and Federal vehicle and traffic laws.

6. Magnetic signage shall be permitted.

- F. Each licensee shall display his or her Westchester County license number on all advertisements, stationery, invoices and proposals.
- G. No individual holding a master plumber's license or journey level certification issued under this ~~a~~Article shall lend such license or certificate to any person or allow any other person to carry on, engage in or labor at the business, as defined herein, of installing, removing, altering, testing, replacing or repairing plumbing systems on the basis of a certificate of competency issued in another's name. A violation of this subsection by any person holding a license or certification shall be sufficient cause for revocation of such license or certification by the board.
- H. No person shall work at the business of plumbing as an apprentice without being under the direct supervision of a certified journey level plumber or licensed master plumber.

**Section 9.** Section 277.510 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.510. - Suspension or revocation of license or certificate.**

- A. Any license or certification issued hereunder may be suspended or revoked at the discretion of the board, in accordance with the rules and regulations of the board, if the board is satisfied by substantial evidence that the holder of such license or certificate has violated any provision of this ~~a~~Article, the rules and regulations of the board or any other law or ordinance pertaining to plumbing. Prior to the revocation or suspension of a license or certificate, the holder shall receive, in writing, all the particulars of the alleged violation and shall have an opportunity to present his or her defense at an administrative hearing held by ~~the board~~ an Administrative Law Judge.

- B. The suspension or revocation of a license shall apply to all county plumbing licenses held by that individual.

Section 10. Article XV of the Laws of Westchester County is hereby amended to include new section 277.510-B as follows:

**Section 277.510-B. - Hearings**

- A. If upon an initial determination by the board that, pursuant to the standards set forth in this Article, the board is entitled to suspend or revoke a license or certification, deny a license or certification renewal, or to take any other appropriate action against the privileges of a holder of a license or certification, the board shall cause to be held a hearing before an administrative law judge selected by the board.
- B. The board shall issue and serve a written notice of hearing by personal service or by certified mail return receipt requested to the holder of a license or certification at the last known business address of such holder of a license or certificate.
1. The hearing shall be held as soon as possible, but in no case later than 60 days after service of the notice of hearing upon the holder of a license or certificate. Notwithstanding the above, a hearing required pursuant to the board's initial determination that there is reasonable cause to suspend or revoke a license or certification shall be held not later than 15 days after service of the notice of hearing.
2. The notice of hearing shall include the following:
- (i) The time, place, and nature of the hearing;
  - (ii) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to particular sections of state law, the laws of Westchester County, and/or rules where possible;

- (iii) A statement outlining the matters asserted, including alleged facts supporting the initial determination;
- (iv) A notice that, upon application of the respondent, a more detailed and definite statement of the matters being asserted will be provided. The board shall make the determination as to whether the initial statement of the matters asserted is not sufficiently definite. Such determination by the board shall not be subject to judicial review;
- (v) The respondent's right to present evidence;
- (vi) The respondent's right to examine and cross-examine witnesses;
- (vii) The respondent's right to be represented by counsel;
- (viii) A statement that the respondent's failure to appear shall constitute a default by the respondent and that the hearing may proceed in the respondent's absence and a determination made based solely upon evidence submitted by the board;
- (ix) A statement that interpreter services will be made available to non-English speaking or hearing-impaired persons at no cost;
- (x) A statement that a respondent may waive his right to a hearing and accept the initial determination of the board without objection, by signing where indicated on and returning the notice of hearing to the board together with any fine which was assessed by the board in conjunction with such determination. Upon the receipt of such a properly completed acknowledgement by the board, the board shall file same with the administrative law judge along with a notice of cancellation of hearing; and
- (xi) The name and address of the administrative law judge for the filings of any notices or papers pursuant to such proceedings.

#### C. Adjournments:

1. The administrative law judge may grant an adjournment upon the request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain. In the case of a hearing initiated due to an initial determination by the board to suspend or revoke a license or certificate, only the holder of a license or certificate shall be entitled to request an adjournment, and such hearing shall not be adjourned for more than seven days, unless both parties agree.
2. If an adjournment is to be requested in advance of the hearing date, such request shall be presented to the administrative law judge in writing at least three business days in advance of such hearing, and shall specify the reason for such request.
3. In considering an application for adjournment of a hearing, the administrative law judge shall consider whether the purpose of the hearing will be affected by the granting of such adjournment.

#### D. Subpoenas

1. To aid in the administration of this law, the administrative law judge designated by the board in a particular proceeding, may issue subpoenas in the board's name requiring the attendance of and the giving of testimony by witnesses, and the production of books, papers and other evidence for any hearing or proceeding conducted pursuant to this section. Service of such subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereto, shall be had as and in the manner provided by the New York State Civil Practice Law and Rules relating to the enforcement of any subpoena issued by a board or administrative law judge.
2. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.

- E. The administrative law judge may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties named in the proceedings.
- F. On the return date of a hearing, the administrative law judge shall note the appearances of the persons attending the hearing. All hearings shall be open to the public.
- G. Witnesses shall be sworn and testimony shall be taken and recorded by use of either a court reporter or an electronic recording device. Testimony shall be transcribed upon the request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.
- H. The administrative law judge shall not be bound by the strict rules of evidence in the conduct of a hearing initiated pursuant to this chapter, but their findings of fact and conclusions of law shall be founded upon substantial evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the holder of a license or certification.
- I. After the conclusion of a formal hearing, the administrative law judge shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law and recommendation(s) to the board.
- J. The recommendations of the administrative law judge may include, but shall not be limited to, a recommendation as to whether the board's initial determination should be rescinded, affirmed, or modified and/or whether a suspended or revoked license or certification should be reinstated unconditionally or upon the condition that the threat to the health or safety or welfare of the public is remedied by the holder of a license or certification in a specified manner according to a specified timetable.
- K. Upon the conclusion of a formal hearing and after consideration of the administrative law judge's report and recommendations, and any evidence of mitigation, the board shall make a

final determination based on substantial evidence, and shall execute an administrative order implementing such decision.

L. If the board determines that the hearing record is not sufficient to make a final determination, the board may direct a rehearing or require the taking of additional evidence.

M. The board shall cause to be served upon the respondent, copies of the administrative law judge's report and the board's final determination and order. Service shall be made in the manner prescribed for the service of notices of hearing.

N. Index of Decisions

1. The board shall maintain an index, which shall be accessible by computer or otherwise, which lists by name and subject all final written decisions, determinations and orders rendered through such hearing proceedings. Such index shall also include by name and subject all written decisions, determinations and orders rendered pursuant to a statute providing any party an opportunity to be heard other than rule making. Such index and the text of any such written final decision, determination or order shall be available for public inspection and copying. Copying services shall be provided at a reasonable fee to be determined by the commission. Each decision, determination and order shall be indexed within 60 days after having been rendered.

2. The board may, upon good cause and the request of a party to a hearing, delete from any such index, decision, determination or order any information that, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eight-nine of the Public Officers Law and may also delete at the request of any person all references to trade secrets that, if disclosed, would cause substantial injury to the competitive position of such person. Information which would

reveal confidential material protected by federal or state statute shall also be deleted from such index, decision, determination or order.

Q. Where any violation of this chapter by a holder of a license or certification has caused the board or the County to incur any expenses with respect to enforcement, such expenses may be charged to the holder of such license or certification. In the discretion of the board, such expenses may be separately collected in a civil suit against such licensee or certification, brought by the County Attorney in the name of the County in a court of competent jurisdiction, in the event that the licensee or registrant refuses to pay such charges voluntarily.

**Section 11.** Section 277.513 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.513. - Penalties for offenses.**

~~4. A.~~ Any person who violates any provision of this ~~a~~Article shall be subject to the imposition of a civil penalty of not less than \$500 and not more than \$5,000 as determined by the board following notice and opportunity to be heard. Each day on which such violation occurs shall constitute a separate offense. Any person who is found in violation of 277.509 sections (A) or (G) for a second or subsequent violation shall be subject to the imposition of a civil penalty of up to \$10,000 for each day on which a violation occurs. Nothing herein contained shall be construed to exempt an offender from any other prosecution or penalty imposed by law. The penalty imposed hereunder and the reasonable costs, disbursements and expenses attendant to its collection shall be recoverable from the offender in the same civil action brought by the County Attorney in the name of the County of Westchester.

~~2. B.~~ Any person who, with intent to defraud or deceive, knowingly makes a false statement in the application for a license or the renewal of a license or an application for a plumbing

permit or for a certificate of occupancy or in any application provided for in this ~~an~~Article or in any proof or instrument in writing in connection therewith or unlawfully performs plumbing work shall be assessed a civil penalty not to exceed \$5,000.00 as determined by the board following notice and opportunity to be heard. Each day on which such violation occurs shall constitute a separate offense.

~~3. C.~~ The board in its discretion may refer any matters that rise to the level of a criminal offense to the office of the District Attorney for further review and appropriate action.

**Section 12.** Section 277.514 of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.514. - Insurance ~~and bond~~ required.**

All persons licensed by this ~~an~~Article shall be required to secure insurance to protect their employees and to protect all persons from personal injury or property damage that could occur, directly or indirectly, during work performed under a license issued pursuant to this ~~an~~Article. The board shall require that such insurance must include New York State workers' compensation, disability, liability and property damage coverages ~~as well as a bond~~. The minimum amount of the ~~bond~~ ~~or insurance~~ policies shall be set by the board conditioned upon observance of all applicable laws, rules and regulations. ~~Each bond and policy shall contain a provision of continuing liability.~~ In addition, prior to issuance of any license or renewal, the applicant shall file satisfactory evidence of compliance with insurance ~~and bond~~ requirements.

**Section 13.** Chapter 277, Article XV of the Laws of Westchester County is hereby amended to read as follows:

**Sec. 277.516 - Criminal penalties.**

Any person who shall maintain, conduct, operate or engage in a plumbing business within the County of Westchester without a license as required under this Article or who continues to conduct a plumbing business after such license has been denied, suspended, revoked or has expired shall be guilty of a class A misdemeanor.

**Section 14.** Within two (2) years of enactment of this Local Law, the Board of Plumbing Examiners shall establish a practice exam as required to be administered by this Local Law. Until such time as the practical exam is established, there shall be no requirement that an individual pass a practical exam as a condition of licensure under this Local Law. Upon establishment of the practical exam, the requirement to pass such an exam shall apply to applications received after the date of establishment.

**Section 15.** Effective Date. This Local Law shall take effect thirty (30) days after enactment.

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