

Proposed Local Law Number 7 Of 2019

County Of Ulster

A Local Law Amending Local Law No. 3 of 2019, A Local Law Establishing the Ulster County Electrical Licensing Board And Providing For the Qualifications, Examination, Licensing And Regulation Of Electricians In Ulster County, New York

BE IT ENACTED, by the Legislature of the County of Ulster, New York, as follows:

SECTION 1. Section 3 of Local Law No. 3 of 2019 is hereby amended to include the following definitions:

“Electrical Contractor” – Includes any person, partnership, limited partnership, limited-liability company, or corporation which engages in or carries on the business of installing, erecting, altering or repairing, for the public at large, electrical wiring, apparatus, fixtures, devices, appliances and equipment utilized or designed for the utilization of electricity for light, heat or power purposes or for signaling systems operating on 50 volts or more under the supervision of a master electrician.

“Electrical Work” – The installation, erection, alteration or repair of electrical wiring, apparatus, fixtures, devices or other equipment used or to be used for the transmission of electricity for electric light, heat, cooling, power (including solar), signaling, communication, alarm or data transmission.

SECTION 2. Section 7 of Local Law No. 3 of 2019 is hereby amended as follows:

A. Every person seeking a Master Electrician's License, a Class B Electrician's License, or a Class C Electrician's License in Ulster County shall make application, along with the required fee, to the Board in the form and manner prescribed by this Local Law and any rules and regulations of the Board.

B. No person shall apply for a license unless, prior to the administration of a written examination, such person satisfies the qualifications set forth herein for that license.

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SECTION 3. Section 8 of Local Law No. 3 of 2019 is hereby amended as follows:

A. The Board may issue and renew a Master Electrician's License. Such license shall permit the licensee to engage in the business of an electrical contractor who is an owner, officer or partner of an electrical contracting business within the County of Ulster for the period of one year from the date it was issued. A Master Electrician will only be entitled to possess one (1) valid Master Electrician's License pursuant to this Local Law for any given year.

B. The Board may issue and renew Class B Electrician's Licenses. Such license shall permit the licensee to do electrical work at a specific facility in Ulster County as an employee of that facility.

C. The Board may issue and renew Class C Electrician's Licenses. Such license shall permit the licensee to engage solely in the work of a specified electrical profession.

D. The license fee for a Master Electrician's License shall be as follows:

(i.) Residents of Ulster County – one hundred and fifty (\$150) dollars - for persons who

(a) have passed the examination, or

(b) are entitled to a temporary license under Section 17 or

(c) can be issued a license under Section 16 (Grandfather Clause);

(ii.) Residents of New York State - seven hundred and fifty (\$750) dollars;

(iii.) Non-residents of New York State - one thousand five hundred (\$1,500) dollars.

E. The license fee for a Class B and Class C license issued in accordance with this Local Law shall be one hundred (\$100) dollars.

F. Each application shall be accompanied by a non-refundable check or money order representing the fee as determined by the Board for administration of the examination.

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G. Renewal. All licenses issued under this Local Law must be renewed annually on or before the expiration thereof for the period of one (1) year upon payment of the applicable annual fee set forth below:

(i.) Master Electrician's License: seventy-five (\$75) dollars for residents of New York State and three hundred and fifty (\$350) dollars for nonresidents of New York State.

(ii.) Class B or Class C Licenses: fifty (\$50).

H. Each application for renewal of a license must also be accompanied by proof that the individual has successfully completed a refresher course within the last twelve (12) months on changes to the New York State Uniform Fire Prevention and Building Code and the current National Electrical Code version adopted by New York State.

I. Licensed Master Electricians who are not actively engaged in the business of Master Electrician may shelve such a license for a fee of fifty (\$50) dollars per year. Class B and Class C Licensees not actively engaged in the electrical work covered by their licenses may shelve such license for a fee of twenty-five (\$25) dollars per year.

J. Licensees may retire their licenses by notifying the Board of their retirement in such form and in such manner as shall be set forth in the Board's rules and regulations. No licensee who has notified the Board of his or her retirement shall be eligible for a renewal license.

K. Unless retired, the failure of a licensee to renew such license after fifteen (15) days of the expiration date shall result in a penalty of fifty (\$50) dollars. If renewal is not received within thirty (30) days from the expiration date, it shall result in revocation of the license unless, upon good cause shown, an additional thirty-day extension is granted by the Board.

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L. Each Master Electrician and Class C Licensee duly licensed under this local law shall list his or her license number in each advertisement, estimate, bill or contract and post such license number at each job and prominently display it on the electrical license decal issued by the Board on each vehicle while in the course of said licensee's trade or business. One decal shall be provided free of charge upon the issuance of a license hereunder. A fee of ten dollars (\$10) shall be charged for each additional decal needed to comply with the provisions contained herein. Said decals shall include the words "Ulster County" and "electric" or "electrical", which must be clearly legible from a distance of fifty (50) feet.

M. The fee for a Master Electrician's License, "Certificate of Name Change" after initial issuance of Master Electrician's License shall be one hundred and fifty dollars (\$150.00). The fee for a Certificate of Name Change after initial issuance of a Class B or Class C License shall be fifty (\$50) dollars. A "Certificate of Name Change" for a Master Electrician shall only be issued to a qualified person as required by this Local Law who is also the owner, officer, or partner of an electrical contracting business.

SECTION 4. A new subsection G is hereby added to Section 9 of Local Law No. 3 of 2019 and shall read as follows:

G. Any installation, maintenance, replacement and/or improvement of electrical work done by a municipal employee in their role as a municipal employee on property owned or leased by a municipality. All such work must comply with local municipal building permit requirements. To the extent that a building permit is required, such electrical work must be inspected by a certified electrical inspector as defined under Section 22 of this local law.

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SECTION 5. Section 10 of Local Law No. 3 of 2019 is hereby amended as follows:

Every person desiring to obtain a Master Electrician's License, a Class B License, or a Class C License under this local law and who meets the qualifications set forth herein shall apply for a license in such form and detail as the Board may prescribe. Such application shall state, among other things:

1. Name, home and business address;
2. Telephone number;
3. Social security number and employer identification numbers;
4. Valid passport photos for identification;
5. A statement of all qualified work experience and education, setting forth names, addresses and descriptions of work performed or degrees attained, and dates of employment or attendance;
6. A statement of whether the applicant was licensed under any other law, where such license is currently valid, whether such license was ever suspended, revoked or other action taken and, if so, the disposition thereof;
7. A statement of whether the applicant was ever convicted of a crime other than a minor traffic infraction, and if so, the disposition thereof;
8. An authorization to the Board to investigate the facts set forth in the application as required to make a determination as to the person's qualifications for an electrical license;
9. A statement that such application is made under penalties of perjury.

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SECTION 6. Section 11 of Local Law No. 3 of 2019 is hereby amended as follows:

A. Master Electrician's License. To qualify for the Master Electrician's License examination, all applicants must possess a minimum of seven (7) years of experience in the installation, alteration, and repair of wiring and appliances for light, heat and power and signaling in or on buildings under the requirements of the National Electrical Code as required by the New York State Department of State, Division of Code Enforcement and Administration and/or any municipal codes within the United States which equal or exceed the requirements of the National Electrical Code. The applicant's years of experience must include at least one of the following:

1. Completion of a four-year apprenticeship program approved by both a Federal agency and a Federally-certified State agency and has worked at least two (2) years with his or her tools on the installation, alteration and repair of wiring and appliances for light, heat and power and signaling purposes in or on buildings. A Certificate of Completion issued by the apprenticeship program and a certification by an employer regarding the additional two (2) years of hands-on work experience shall be submitted with the application for the electrical license examination; or
2. A journeyman electrician who has worked at least two (2) years as a journeyman with his or her tools on the installation, alteration and repair of wiring and appliances for light, heat and power and signaling purposes in or on buildings. The applicant shall submit proof of having satisfied the definition of a qualified journeyman electrician and a certification by an employer regarding the additional two (2) years of hands-on work experience; or

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3. A graduate engineer of a college or university who holds a degree of electrical engineering, master engineering or Bachelor of Science in electrical engineering and has in addition worked at least three (3) years with his or her tools on the installation, alteration and repair of wiring and appliances for light, heat and power and signaling purposes in or on buildings. The applicant shall submit a copy of his or her diploma and a certification by an employer regarding the additional three (3) years of hands-on work experience; or

4. A high school or equivalent who is a graduate of a vocational, industrial or trade school in electric wiring, installation and design or applied electricity, and has worked at least six (6) years with his or her tools on the installation, alteration and repair of wiring and appliances for light, heat and power and signaling purposes in or on buildings. The applicant shall submit a copy of his or her diploma or equivalency diploma and a certification by an employer regarding the additional six (6) years of hands-on work experience; or

5. A person who attended courses in a college or university leading to a degree in electrical engineering, mechanical engineering, Bachelor of Science in electrical engineering or mechanical engineering, who passed all subjects in the required courses shall be credited with practical experience equal to fifty (50%) percent of the number of curriculum years he has satisfactorily completed which, in no event, however, shall exceed one (1) year's credit of practical experience, and an additional six (6) years of hands-on work experience must have been obtained by working with his or her tools on the installation, alteration and repair of wiring and appliances for light, heat and power and signaling purposes in or on buildings. The applicant shall submit a copy of his or her school transcripts and a certification by an employer regarding the additional six (6) years of hands-on work experience; or

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6. A person who worked in the field of electrical contracting for at least seven (7) years immediately preceding the date of application. The applicant shall submit a certification by an employer regarding the additional seven (7) years of hands-on work experience. A year of practical hands-on experience shall be credited if such person was employed in a part-time capacity and the hand on experience was completed within a period of twenty-four (24) consecutive months.

B. Class B License. To qualify for a Class B License an applicant shall have successfully served as a Journeyman for at least five (5) years in the electrical contracting and construction field. Trade school training may reduce the five (5) year requirement at the discretion of the Board. The applicant shall have a working knowledge of electricity, and the natural laws of electricity, appliances and devices for electric light, heat, power and signaling purposes used and required in such work, combined with a practical working knowledge of the National Electrical Code. The applicant shall demonstrate his knowledge in a written examination.

C. Class C License. The Board shall promulgate rules and regulations providing the qualifications required for Class C Licenses. Such rules and regulations shall take into account the different types of professions covered by such licenses and the Board may use different qualifications for each profession.

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SECTION 7. Section 12 of Local Law No. 3 of 2019 is hereby amended as follows:

A. A person who applies for a license pursuant to this local law must prove to the satisfaction of the Board that he or she is a competent electrician and qualified to do the work covered by the license; has a working knowledge of electricity and the natural laws, properties and functions of electricity and of appliances, apparatus, materials, devices for electric, light, heat, power and signaling systems used and required in such work, combined with a practical working knowledge of the requirements and provisions of the National Electrical Code and a knowledge of the provisions of this local law and the rules and regulations of the Board and the State of New York, if any, and of the County of Ulster for installation of electrical wiring, devices, appliances and equipment and of the provisions thereof requiring permits therefor.

B. In addition to the requirements set forth above in subsection A, a person who applies for a Class B Electrician's License pursuant to this local law shall also prove to the satisfaction of the Board that he or she is in the employ of the owner, lessee or manager of a building, plant or structure and that he or she will exclusively use the license for electrical work on that building plant or structure during the course of his or her employment.

SECTION 8. Section 13 of Local Law No. 3 of 2019 is hereby amended as follows:

A. All applicants for a Master Electrician's License or a Class B License must submit to and pass an examination. Examinations shall be in writing or in such form as determined by the Board from time to time. An applicant must receive a grade of seventy-five (75%) percent or more to pass the examination. A complete record of every examination given shall be kept on file for three (3) years after the date of the examination. Examinations shall be held at such times and places as the Board may fix.

B. The applicant must present himself for examination at the time and place specified in a notice from the Board.

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C. An applicant who fails his or her first examination shall not be eligible for reexamination until the next regularly scheduled exam. A person who fails the examination twice shall not be eligible for further reexamination until at least six (6) months have elapsed from the date he or she last took the examination.

D. The Board shall determine if examinations are appropriate for Class C Electrician's Licenses. The Board's determination shall be set forth in its rules and regulations and need not be the same for each of the professions covered by the license.

SECTION 9. Section 14 of Local Law 3 of 2019 is hereby amended as follows:

A. Upon meeting all the requirements of this Local Law, the Board shall direct the Chairman or his/her designee to issue a license to the applicant. The individual's name shall then be placed on the Ulster County list of qualified Master Electricians, Class B Licensees, or Class C Licensees as appropriate.

B. Failure to pass any exam required by this local law or by the rules and regulations promulgated by the Board with a grade of seventy-five (75%) percent or more, or to meet the qualifications and other requirements set forth herein, shall be summary grounds for denial of a license under this Local Law.

SECTION 10. Section 16 of Local Law 3 of 2019 is hereby amended as follows:

A. Any person possessing a certified copy of a Master Electrician's License issued by Kingston, which was valid and effective as of the date of the adoption of this Local Law and who completes an application to the Board as required by the Board no later than two (2) years from the date of the adoption of this Local Law shall be granted an Ulster County license without examination.

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B. Any person who can show proof that he or she has been in business as an electrical contractor continuously and competently doing the work of a Master Electrician in Ulster County for at least eleven (11) consecutive years prior to the date of the adoption of this Local Law and this work is a principal source of livelihood for that person, and who completes an application to the Board as required by the Board no later than two (2) years from the date of the adoption of this Local Law shall be entitled to a Master Electrician's License without examination, which will not apply in the City of Kingston, where an examination has been a requirement.

C. Any person who can show proof that he or she has been continuously and competently doing the work of a Class B Licensee in Ulster County for at least five (5) consecutive years prior to the date of adoption of this Local Law and that this employment is a principal source of livelihood for that person and who completes an application to the Board as required by the Board no later than two (2) years from the date of the adoption of this Local Law shall be granted a Class B License without examination.

D. Any person who can show proof that he or she has been continuously and competently doing the work of a Class C Licensee in Ulster County for at least five (5) consecutive years prior to the date of adoption of this Local Law and that this employment is a principal source of livelihood for that person and who completes an application to the Board as required by the Board no later than two (2) years from the date of the adoption of this Local Law shall be granted a Class C License without examination.

E. Any person who is issued a license under this Grandfather Clause may renew said license annually on or before the expiration of the license upon payment of an annual renewal fee.

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F. If a person is issued a Master Electrician's License under this Section, such person may renew his or her license for an additional fee without taking the written examination only if:

- (a) he or she has been actively and continuously engaged in work as a Master Electrician under the supervision of a licensed Master Electrician since the issuance of his or her last valid Master Electrician's License; or
- (b) he or she has been actively and continuously engaged in work as an inspector of electrical work; or
- (c) he or she has not been actively or continuously engaged in work as a Master Electrician during the past two years but can provide proof acceptable to the Board that he or she has recently participated in a continuing education course updating his or her knowledge of the work of a Master Electrician.

G. If a person is issued a Class B License under this Section, such person may renew his or her license for an additional fee without taking a written examination only if:

- (a) he or she has been actively and continuously engaged in the work of a Class B Licensee; or
- (b) he or she has not been actively or continuously engaged in work as a Class B Licensee during the past two years but can provide proof acceptable to the Board that he or she has recently participated in a continuing education course updating his or her knowledge of the work of a Class B Licensee.

H. If a person fails to apply for a license under the Grandfather Clause of this local law within five (5) years of enactment of this local law, then said person must comply with all the other requirements contained in this local law in order to receive a license.

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SECTION 11. Section 17 of Local Law 3 of 2019 is hereby amended as follows:

SECTION 17. PROVISIONAL LICENSES.

A. Master Electrician. A person who has been in the electrical business in Ulster County, continuously and competently doing the work of a Master Electrician, for a period of less than eleven (11) consecutive years but more than seven (7) consecutive years, prior to the date of the adoption of this Local Law can apply to the Board for a Provisional Master Electrician's License. Upon completion of eleven (11) consecutive years of successfully and competently performing electrical work in Ulster County, such person may apply to the Board for a Master Electrician's License under Section 16 (Grandfather Clause) of this local law.

B. Class B Electrician. A person who has been in the electrical business in Ulster County, continuously and competently doing the work of a Class B Licensee, for a period of less than five (5) consecutive years but more than three (3) consecutive years, prior to the date of the adoption of this Local Law can apply to the Board for a Provisional Class B License. Upon completion of five (5) consecutive years of successfully and competently performing electrical work in Ulster County, such person may apply to the Board for a Class B License under Section 16 (Grandfather Clause) of this local law.

C. Class C Electrician. A person who has been in the electrical business in Ulster County, continuously and competently doing the work of a Class C Licensee, for a period of less than five (5) consecutive years but more than three (3) consecutive years, prior to the date of the adoption of this Local Law can apply to the Board for a Provisional Class C License. Upon completion of five (5) consecutive years of successfully and competently performing electrical work in Ulster County, such person may apply to the Board for a Class C License under Section 16 (Grandfather Clause) of this local law.

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SECTION 12. Section 19 of Local Law No. 3 of 2019 is hereby amended as follows:

A licensee may be fined or his or her license refused, suspended or revoked by the Board for anyone (1) or more of the following reasons:

1. Violation of any provision of this local law or of any rule or regulation adopted hereunder by the Board or any other law or ordinance pertaining to electricians;
2. Violation of any law, rule, regulation or any building code governing electrical work, or any order issued by building departments of any municipality in Ulster County;
3. Violation of any requirement contained in the rules and regulations of the National Fire Protection Association or the National Electrical Code;
4. Conviction of a crime by a court of competent jurisdiction where there is a direct relationship between the crime and the specific license sought; or the issuance of the license would invoke an unreasonable risk to the property or to the safety or welfare of specific individuals or the general public;
5. Fraud, misrepresentation or bribery in securing a license;
6. The making of any false statement as to a material matter in any application for a license or name change;
7. The business transactions of the licensee have been marked by a practice of failure to perform contracts or the fraudulent manipulation of assets or accounts;
8. Failure to display the license decal issued under this Local Law;

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9. Maintaining, conducting, operating, advertising, engaging in or transacting a business as a Master Electrician, Class B or Class C Licensee in the County of Ulster with a shelved license;
10. Employing an unlicensed subcontractor or subcontractors to perform electrical work or any combination thereof in the County of Ulster-;
11. Holding a Class B License and engaging in the work of a Class B Licensee for a company, employer, or facility other than the employer identified in the license application; or
12. Holding a Class C License for a specified profession and engaging in the work of a Class C Licensee in a different profession.

SECTION 13. Section 20 of Local Law No. 3 of 2019 is hereby amended as follows:

- A. Failure to comply with the provisions of this Local Law shall constitute a Violation and shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or imprisonment not to exceed fifteen days.
- B. The Commissioner, and/or his or her designee, shall have the authority to issue violations and/or appearance tickets as they are defined in this local law and Article 150 of the Criminal Procedure Law.
- C. Nothing herein contained shall prevent the Commissioner from proceeding to enforce by both Criminal and Civil Action the requirements of this Local Law.
- D. The Board may withhold the issuance of a license, either new or renewed, to any person who has failed to pay any fine imposed pursuant to the provisions of this Local Law.

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E. Nothing in this Local Law shall prevent a local municipality or law enforcement agency from initiating independent proceedings against a licensee or any other person who has violated any other law.

F. Prior to the imposition of any fine or penalty or the refusal, revocation or suspension of a licensee, the applicant or licensee shall receive in writing, all the particulars of the alleged violation and shall have an opportunity to present his or her defense at adjudicatory proceeding as set forth in the attached regulations.

G. Provided that this section shall not be operative as to, nor shall any fines be assessed under this Law for, any violations of this Local Law arising on or before April 1, 2020.

SECTION 14. Section 21 of Local Law No. 3 of 2019 is hereby amended as follows:

A. This Local Law shall not be construed to relieve, limit or reduce the responsibility of any person owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the County of Ulster be deemed to have assumed any such liability by reason of any license issued pursuant to this Local Law.

B. Every person holding a Master Electrician's License shall submit proof to the Board that he or she maintains liability, workers compensation and disability insurance for damage to persons and property in connection with the carrying on of his business as a Master Electrician in such amounts as shall be established by the Board from time to time.

C. The failure to maintain an insurance policy or file proof of coverage shall be grounds for the summary suspension of such person's license under this local law, which suspension shall continue in effect until coverage is obtained or reinstated.

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SECTION 15. Section 23 of Local Law No. 3 of 2019 is hereby amended as follows:

A. The Legislature may authorize the County Executive to enter into reciprocal license agreements with individual municipalities or other jurisdictions within New York State. For Master Electrician licenses, such agreements may be authorized only upon the recommendation and finding of the Board that the qualifications required for a Master Electrician's License in such municipality or jurisdiction are equal to or greater than those required by this Local Law. For Class B and Class C licenses, the Legislature may authorize the County Executive to enter into reciprocal license agreements only upon a recommendation and finding of the Board that there is a substantially similar license in such municipality or jurisdiction, and that the qualifications for such license in such municipality or jurisdiction is equal to or greater than those required by this Local Law. Reciprocal agreements may cover all or some classes of licenses.

B. Pursuant to such formalized reciprocal license agreements, the Board shall be authorized to issue reciprocal licenses upon such terms and conditions as are applicable to the individual reciprocating municipalities and other jurisdictions. Said licenses may be granted without examination upon application to the Board and payment of all required fees.

C. However, a reciprocal license shall only be issued if the municipality or jurisdiction which licensed such individual is similarly issuing a reciprocal license to individuals licensed pursuant to this section. Said licenses may be granted without examination upon the filing of an application with the Board, submission of a certificate from the reciprocating municipality or jurisdiction that the individual requesting such license is in good standing, the payment of all required fees and such other and further terms and conditions as the board deems appropriate.

D. Reciprocal licenses shall only be valid for a period of one year and may only be renewed from year to year if there is reciprocity between the County of Ulster and the reciprocating municipality or jurisdiction at the time of each such renewal.

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SECTION 16. The following is hereby attached to the end of Local Law No. 3 of 2019:

Regulations for Adjudicatory Proceedings

1. Intent, Purpose, and Applicability.

The Electrical Licensing Board is hereby authorized to use the following rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to compliance with this local law, providing for the qualifications, examination, licensing and regulation of electricians in Ulster County New York and the conduct of hearings held thereunder.

These rules and regulations shall apply to all proceedings undertaken by the Board. Persons subject to the requirements of the law shall be entitled to receive an adjudicatory proceeding as to every action or decision as to them taken by the Board, including but not limited to qualifications, examinations, denials, extensions of time, waivers and/or exemptions from the licensing requirements.

2. Definitions.

- (a) "Board" shall mean the Ulster County Electrical Licensing board established pursuant to Local Law No. 3 of 2019.
- (b) "Hearing Officer" shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations, which shall be independent of the Board and of the County of Ulster, and shall be provided by the County.

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3. Notice of Hearing or Proceeding.

- (a) Where the Board elects to go forward with a proceeding to determine compliance with the requirements of this local law, or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least twenty (20) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:
 - (i) a statement of the time and place of the hearing or proceedings;
 - (ii) a statement of the nature of the hearing or proceeding;
 - (iii) a reference to the particular statutes, local law provisions, and rules relevant to the hearing or proceeding;
 - (iv) a short, plain language statement and violations asserted, if any; and
 - (v) a statement of hearing impaired parties and participants concerning the provision of deaf interpretation services without charge.

4. Time and Place of Hearing or Proceeding.

- (a) The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.
- (b) The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8 of these rules.

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- (c) The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

5. Evidence and Proof.

- (a) The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.
- (b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.
- (c) The burden of proof shall be upon the Board to establish by clear and convincing evidence of the facts and findings which support its requirements under the law.
- (d) No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any party to the hearing or proceeding and as supported by and in accordance with substantial evidence.
- (e) Each party shall have the right of cross-examination.
- (f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.

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- (g) All findings of fact shall be based exclusively on the evidence in record and on matters officially noticed.

6. Representation.

Any person compelled to appear in person, or who voluntarily appears in any hearing or proceeding conducted according to these rules, shall be accorded the right to be accompanied, represented, and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing or proceeding herein.

7. Oaths.

- (a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.
- (b) Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to these rules.

8. Adjournments.

- (a) Adjournments of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.
- (b) Written request for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request. All parties must be copied on the request.

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9. Time Limits.

- (a) Under these rules, adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.
- (b) Parties to any hearing or proceeding are required to file all papers, statements, proofs, and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

10. Decisions after Hearing or Proceeding.

- (a) The Hearing Officer shall issue a final recommendation within thirty (30) days of the conclusion of the hearing. All final recommendations of the hearing officer and all decisions and determinations of the Board shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.
- (b) A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.

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- (c) Except as required for the disposition of ex parte matters authorized by law, members or employees of the Board assigned to make a determination or decision, or to make findings of fact and conclusions of law in any hearing or proceeding, shall not communicate directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate. Any member or employee of the Board may communicate with other members or employees and may have the aid and advice of agency staff, other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or a factually related case.
- (d) The Board shall issue its final decision within thirty (30) days of receipt of the Hearing Officer's final recommendation. The Board's final decision shall be filed, indexed, and maintained in the Boards records. The index and the notice of civil assessment, if any, shall not be made available for public inspection and copying except as provided in Section 16 of these rules.

11. Conduct of Hearings.

The hearing officer, exercising discretion, may elect to conduct any hearing or proceeding under these rules ex parte after a showing that the party who is the subject of the hearing and its representative of record has been notified by certified mail of the pending hearing or proceeding or otherwise served with notice of the hearing. The party who is the subject of the hearing shall at no time be deprived of the opportunity to appear. However, if a party has been served with two (2) written notices of a hearing and fails to appear after each notice, the hearing officer, upon proof of service, shall have the authority to proceed with the scheduled hearing. Proof of the service shall consist of a signed certified mail receipt or affidavit.

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12. Hearing Officer.

All hearings or proceedings under these rules shall be conducted by a hearing officer, retained and provided by the County of Ulster, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute or local law, ordinance, or resolution, and these regulations. The hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

13. Powers and Duties of Hearing Officers.

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned:

- (a) administer oaths and affirmations;
- (b) at the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue subpoenas under the Civil Practice Law and Rules;
- (c) provide for the taking of testimony by deposition;
- (d) regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;
- (e) direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and
- (f) prepare findings of fact and recommendations.

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14. Fines, Penalties.

- (a) At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken including the suspension or revocation of such person's electrical license. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen (15) days after the service of the hearing officer's findings and recommendations upon the parties. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the findings of fact and recommendation as expeditiously as possible. In no event shall the decision be issued later than thirty (30) days after receipt of the Hearing Officer's recommendation. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.
- (b) The assessment of civil penalties or other penalty under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges.
- (c) If the alleged violation has been established, and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty or other penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board in its discretion may take such other action as appropriate, including but not limited to a written admonition or a referral to a prosecutor for prosecution of criminal charges.

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15. Records of Hearing or Proceeding.

(a) The record in hearing or proceeding under these rules shall include:

- (i) all notices, pleadings, motions, and intermediate rulings;
- (ii) evidence presented;
- (iii) a statement of matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
- (iv) questions and offers of proof, objections thereto, and rulings thereon;
- (v) proposed findings and exceptions, if any;
- (vi) any findings of fact, conclusions of law, or other recommendations made by the hearing officer; and
- (vii) any decision, determination, opinion, order, or report rendered.

(b) The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board may use whatever means it deems appropriate, including but not limited to the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion, or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record of any part thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested portions of the record and transcript within a reasonable time and furnish a copy to the requesting party at no charge.

16. Privacy/Confidentiality.

Records shall be released only as required by the provisions of Article 6 of Public Officers Law.

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SECTION 17. SEVERABILITY.

If any word, phrase, clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 18. EFFECTIVE DATE.

This law shall take effect upon filing with the Secretary of State.