



TOWN OF ORANGETOWN TOWN BOARD MEETING

Tuesday November 30, 2021

This Town Board Meeting was opened at 7:00 PM.

Councilperson Denis Troy _____
Councilperson Thomas Diviny _____
Councilperson Paul Valentine _____
Councilperson Jerry Bottari _____
Supervisor Teresa M. Kenny _____

🇺🇸 Pledge of Allegiance to the Flag

ANNOUNCEMENTS:

- ◆ **PUBLIC HEARING / RTBM OF DECEMBER 14, 2021 AT 7:05 P.M. / ROCKLAND CIDER WORKS / PETITION FOR SPECIAL PERMIT**

PRESENTATIONS:

- ◆ **SOUTH ORANGETOWN SOFTBALL LITTLE LEAGUE / 12 Under Girls / NYS Champions, East USA Regional Champions, and Little League Softball World Series Participants**

DISCUSSION:

- ◆ **PKF O'Connor Davies Engagement Letter: 2-year contract with 2% increase**
- ◆ **Workshop of Agenda Items**

PUBLIC COMMENT:

1. OPEN PUBLIC COMMENT PORTION

RESOLVED, that the public portion is hereby opened.

SUMMARY OF PUBLIC COMMENTS:

2. CLOSE PUBLIC COMMENT PORTION

RESOLVED, that the public portion is hereby closed.

AGENDA ITEMS:

TOWN BOARD

3. **OPEN PUBLIC HEARING / RTBM OF NOVEMBER 30, 2021 AT 7:45 P.M. / AMENDING CHAPTER 5 (BUILDING CONSTRUCTION AND FIRE PREVENTION) / ADOPT THE NYSTRETCH ENERGY CODE-2020**

RESOLVED, that the public hearing to consider a proposed Local Law amending Chapter 5 (Building Construction and Fire Prevention) and Adopt the NY Stretch Energy Code-2020 is hereby opened.

4. **CLOSE PUBLIC HEARING / AMENDING CHAPTER 5 (BUILDING CONSTRUCTION AND FIRE PREVENTION) / ADOPT THE NYSTRETCH ENERGY CODE-2020**

RESOLVED, that the public portion is hereby closed.

5. **AMEND RESOLUTION #415 (RTBM 10/26/2021) / OFFICE OF BUILDING, ZONING AND PLANNING ADMINISTRATION AND ENFORCEMENT: ADOPTION OF LOCAL LAW NO. _____ OF 2021 / AMENDING CHAPTER 5 (BUILDING CONSTRUCTION AND FIRE PREVENTION), SO AS TO ADOPT THE NYSTRETCH ENERGY CODE - 2020**

IT IS HEREBY RESOLVED, by the Town Board of the Town of Orangetown, as follows:

WHEREAS, to prevent a statewide patchwork of stricter energy codes, the New York State Energy Research and Development Authority (NYSERDA) developed the NYStretch Energy Code - 2020 (NYStretch).

WHEREAS, a stretch energy code is simply an energy code that is more stringent than the minimum base energy code that can be voluntarily adopted by local jurisdictions. NYStretch is a model stretch code that will be ten to twelve percent (10-12 %) more efficient than the minimum requirements of the base energy code, the 2020 Energy Conservation Construction Code of New York State (2020 ECCCNYs).

WHEREAS, some New York State municipalities have adopted stricter energy standards to ensure reduced energy costs for its residents and businesses.

WHEREAS, under NYS Energy Law §11-109, the Town Board of The Town of Orangetown is authorized to adopt a local energy code more stringent than the 2020 ECCCNYs.

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) developed NYStretch as a statewide model code for New York jurisdictions to use to meet their energy and climate goals by accelerating the savings obtained through their local building energy codes; and, for jurisdictions that adopt it, NYStretch will provide savings of roughly 11% over the 2020 ECCCNYs when that energy code is released by the New York State Department of State.

WHEREAS, NYStretch is a stretch code that: (i) is readily adoptable with minimal changes by local governments; (ii) is in enforceable language; (iii) is coordinated with the New York State Uniform and Energy Codes; (iv) is about one cycle ahead of the next New York State Energy

Code in its requirements; (v) lowers energy use and greenhouse gas emissions associated with new and existing buildings; and (vi) is cost-effective and regionally appropriate.

WHEREAS, the Town Board is considering amending provisions of Chapter 5 of the Code of the Town of Orangetown (“Orangetown Code”), entitled Building Construction and Fire Prevention, so as to add provisions for a local energy code.

WHEREAS, the Town Board is declared Lead Agency for the purposes of environmental review with respect to the proposed Resolution, in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the Regulations promulgated thereunder at 6 NYCRR 617 (collectively, the State Environmental Quality Review Act or SEQRA).

WHEREAS, the Town Board, as the SEQRA Lead Agency, has determined that the proposed Action meets the criteria of a Type II Action under SEQRA Regulation §617.5(c) (33), which is exempt from, and is not required to undergo, a SEQRA environmental review.

WHEREAS, the Town Board has determined that this proposed Local Law is not subject to the mandates of NYS General Municipal Law (GML) §239-m, and, therefore, not required to be referred to the Rockland County Planning Department for GML review.

WHEREAS, the Town Board has complied with all public notice requirements as mandated by New York State statute(s) and the Orangetown Code, and the proposed Local Law has been distributed to the Town Board as per NYS Municipal Home Rule Law §20(4), and a Public Hearing was duly held by the Town Board regarding the proposed Local Law on _____, 2021, at which time all persons either for or against said amendments were heard.

NOW, THEREFORE, BASED ON ALL OF THE INFORMATION BEFORE THE TOWN BOARD, AND THE FINDINGS MADE HEREIN,

BE IT RESOLVED that the Town Board hereby adopts and enacts the proposed Local Law in the form and substance, as may be amended herein.

LOCAL LAW NO. _____ OF 2021, AMENDING LOCAL LAW NO. 8, OF 2021 OF THE TOWN OF ORANGETOWN, NEW YORK, TO ADOPT AMENDMENTS TO CHAPTER 5 (BUILDING CONSTRUCTION AND FIRE PREVENTION) OF THE CODE OF THE TOWN OF ORANGETOWN, SO AS TO ADD PROVISIONS FOR A LOCAL ENERGY CODE

Section 1. Recitals and Legislative Intent

The New York State (hereinafter sometimes referred to as “NYS”) Energy Conservation Construction Code (hereinafter referred to as the “State Energy Code”) is adopted by the State Fire Prevention and Building Code Council (hereinafter referred to as the “Code Council”) pursuant to Article 11 of the NYS Energy Law.

The State Energy Code includes the provisions contained in Part 1240 of Title 19 of the New York Codes, Rules and Regulations (hereinafter referred to as “Part 1240”) and the publications incorporated by reference in Part 1240.

The publications currently incorporated by reference in Part 1240 include, but are not limited to, the 2020 edition of the Energy Conservation Construction Code of New York State (hereinafter referred to as the “2020 ECCCNY”) and the 2016 edition of ASHRAE 90.1 (hereinafter referred to as “ASHRAE 90.1-2016”).

The 2020 ECCCNY is based on the 2018 edition of a publication entitled International Energy Conservation Code (hereinafter referred to as the “2018 IECC”).

The New York State Energy Research and Development Authority (hereinafter referred to as “NYSERDA”) has issued a publication entitled NYStretch Energy Code 2020, Version 1.0, dated July 2019 (hereinafter referred to as “NYStretch”). NYStretch modifies (i.e., amends, replaces, replaces and renames, or adds to) certain sections, certain tables, and a certain appendix in the 2018 IECC; adds certain sections, certain tables, and certain appendices to the 2018 IECC; modifies (i.e., adds to, amends, or replaces) certain sections and certain tables in ASHRAE 90.1-2016; and adds certain new sections to ASHRAE 90.1-2016.

Studies commissioned by NYSEDA indicate that modifying the State Energy Code in the manner contemplated by NYStretch can result in significant savings in energy usage and energy costs.

Article 11 of the NYS Energy Law authorizes municipalities to adopt local energy conservation construction codes that are more stringent than the State Energy Code.

The Town Board of the Town of Orangetown seeks to protect and promote the public health, safety, and welfare of its residents by mandating energy efficient building standards; and desires to adopt, as its local energy conservation construction code, the State Energy Code as modified in the manner contemplated by NYStretch.

This proposed amendment to the Code of the Town of Orangetown (hereinafter referred to as the “Orangetown Code”) seeks to modify Chapter 5 of the Orangetown Code (Building Construction and Fire Prevention) so as to adopt NYStretch and to enact more restrictive regulations as they relate to new, or substantially renovated or altered, buildings.

Section 2. Adoption of Local Energy Conservation Construction Code

Section 5-1 of Chapter 5 (Building Construction and Fire Prevention) of the Orangetown Code shall be amended and, as amended, shall read as follows:

§5-1. Applicability of Uniform Code, and the State Energy Code as modified by NYStretch.

The applicability of the New York State Uniform Fire Prevention and Building Code, and the New York State Energy Conservation Construction Code (hereinafter referred to as the “State Energy Code”), were previously accepted by the Town of Orangetown by Local Law No. 5 of 2017, which was adopted by the Town Board of the Town of Orangetown on May 16, 2017; and the Town of Orangetown hereby now adopts, as its local energy conservation construction code, the State Energy Code as modified in the manner contemplated by NYStretch Energy Code 2020, Version 1.0, dated July 2019 (hereinafter referred to as “NYStretch”). Such local energy conservation construction code shall consist of the provisions currently set forth in Part 1240 and in the publications currently incorporated by reference in Part 1240, provided, however, that the Energy Conservation Construction Code of New York

State (hereinafter referred to as the “2020 ECCCNY”), and ASHRAE 90.1-2016, shall be deemed to be modified as follows:

(a) in each case where a section, table, or appendix in the 2018 IECC is modified by NYStretch, the corresponding section, table, or appendix in the 2020 ECCCNY shall be deemed to be modified in the same manner;

(b) in each case where a section, table, or appendix is added to the 2018 IECC by NYStretch, such section, table, or appendix shall be deemed to be added to the 2020 ECCCNY subject to the following exception:

(i) Section R403.6.2 added to the 2018 IECC by NYStretch shall not be deemed to be added to the 2020 ECCCNY];

(c) each section or table in ASHRAE 90.1-2016 that is modified by NYStretch shall be deemed to be so modified; and

(d) each section added to ASHRAE 90.1-2016 by NYStretch shall be deemed to be added to ASHRAE 90.1-2016

A copy of NYStretch is annexed hereto and made part hereof.

§5-1A. Applicability.

The local energy conservation construction code, as hereby adopted, shall be applicable to all buildings constructed, substantially renovated or altered in the Town of Orangetown on or after the effective date of this Local Law, and to all additions to buildings in the Town of Orangetown made on or after the effective date of this Local Law. However, pursuant to NYS Energy Law §11-109(2):

(a) if a copy of this Local Law is filed with the New York State Department of State, Division of Building Standards and Codes, as Secretariat for the Code Council, within thirty days after adoption of this Local Law, and if the Code Council shall subsequently determine that the local energy conservation construction code as hereby adopted is not more restrictive than the State Energy Code, then on and after the date of such determination the local energy conservation construction code as hereby adopted shall no longer be enforced and the State Energy Code shall be applicable and shall be enforced in the Town of Orangetown; and

(b) if a copy of this Local Law is not filed with the New York State Department of State, Division of Building Standards and Codes, as Secretariat for the Code Council, within thirty days after adoption of this Local Law, then the local energy conservation construction code as hereby adopted shall not be enforceable until and unless the Code Council shall determine that such local energy conservation construction code is more restrictive than the State Energy Code, and until and unless the Code Council shall make such determination the State Energy Code shall be applicable and shall be enforced in the Town of Orangetown.

Section 3. Authority

This proposed Local Law is enacted and adopted pursuant to NYS Energy Law §11-109(1), and NYS Municipal Home Rule Law §10, and in accordance with the procedures prescribed in NYS Municipal Home Rule §20.

Section 4. Severability

If any section, subdivision, paragraph, clause or phrase of this Local Law shall be adjudged invalid, or held to be unconstitutional, by any court of competent jurisdiction, any judgment or order made thereby shall not affect the validity of this Local Law as a whole, or any part thereof, other than the part or provision so adjudged to be invalid or unconstitutional.

Section 5. Effective Date

This Local Law shall take effect upon publishing and posting a copy in the manner prescribed by applicable laws, and upon filing a copy with the NYS Secretary of State.

6. OPEN PUBLIC HEARING / RTBM OF NOVEMBER 30, 2021 AT 8:00 P.M. / DOMINICAN COLLEGE / APPLICATION FOR A WATERCOURSE DIVERSION PERMIT

RESOLVED, that the 8:00 P.M. public hearing on Dominican College application for a watercourse diversion permit is hereby opened.

PRESENTATION of Affidavit of Public Hearing posting and publication.

SUMMARY OF COMMENTS

7. CLOSE PUBLIC HEARING / DOMINICAN COLLEGE / APPLICATION FOR A WATERCOURSE DIVERSION PERMIT

RESOLVED, that the public portion is hereby closed.

8. APPROVE DOMINICAN COLLEGE / APPLICATION FOR A WATERCOURSE DIVERSION PERMIT

WHEREAS, on November 10, 2021, the Planning Board conducted a public hearing and declared itself lead agency relating to Dominican College's site plan application, for which this watercourse diversion permit application is related, and issued a negative declaration, and further granted preliminary approval to the application, conditioned on the Town Board granting the instant permit;

WHEREAS, the Town of Orangetown Highway Department, the Department of Environmental Management and Engineering (DEME), and the Office of Building, Zoning, Planning, Administration and Enforcement (OBZPAE) recommend issuing the permit;

NOW THEREFORE, BE IT RESOLVED, the application from Dominican College for a watercourse diversion permit, relating to property located at 470 Western Highway, Orangeburg, New York, Section 74.06, Block 3, Lots 1.1 and 1.3 is hereby approved.

9. **APPROVE / FUND OVERAGE / STATE AND MUNICIPAL (SAM) GRANT / UPGRADE FITNESS EQUIPMENT / VETERANS MEMORIAL PARK**

WHEREAS, pursuant to a letter dated September 24, 2021, the Town of Orangetown has been approved by the State of New York to receive a State and Municipal Facilities Program (SAM) grant to be administered by the Dormitory Authority of the State of New York (DASNY) for Upgrades to the Fitness Equipment at Veterans Memorial Park in the amount of \$50,000, subject to review and approval of DASNY and the submission of further documentation by the Town to DASNY; and,

WEHREAS, the Town Board hereby finds the Upgrades to the Fitness Equipment project and acceptance of the grant is a Type II action under SEQRA which requires no further review with respect to SEQRA; and,

NOW THEREFORE, BE IT RESOLVED, that the Town Board agrees to accept the SAM grant from the State of New York, which is to be administered by DASNY, in the amount of \$50,000 for Upgrades to the Fitness Equipment at Veterans Memorial Park project; and,

BE IT FURTHER RESOLVED, the Town Board agrees to fund any overages in costs through fund balance, for the SAM grant to upgrade fitness equipment at Veterans Memorial Park, not to exceed \$20,000; and,

BE IT FURTHER RESOLVED, that the Supervisor or her designee is authorized to execute any and all documents necessary to accept and administer the grant for Upgrades to the Fitness Equipment at Veterans Memorial Park in accordance with DASNY requirements, subject to review and approval of the Town Attorney's Office.

10. **APPROVE / FUND OVERAGE / STATE AND MUNICIPAL (SAM) GRANT / SPLASH PAD / VETERANS MEMORIAL PARK**

WHEREAS, pursuant to a letter dated September 24, 2021, the Town of Orangetown has been approved by the State of New York to receive a State and Municipal Facilities Program (SAM) grant to be administered by the Dormitory Authority of the State of New York (DASNY) for construction of a Splash Pad at Veterans Memorial Park in the amount of \$275,000, subject to review and approval of DASNY and the submission of further documentation by the Town to DASNY; and,

WEHREAS, the Town Board hereby finds the Splash Pad project and acceptance of the grant is a Type II action under SEQRA which requires no further review with respect to SEQRA; and,

NOW THEREFORE, BE IT RESOLVED, that the Town Board agrees to accept the SAM grant from the State of New York, which is to be administered by DASNY, in the amount of \$275,000 for the Splash Pad at Veterans Memorial Park project; and,

BE IT FURTHER RESOLVED, the Town Board agrees to fund any overages in costs through fund balance, for the SAM grant for the Splash Pad at Veterans Memorial Park, not to exceed \$20,000; and,

BE IT FURTHER RESOLVED, that the Supervisor or her designee is authorized to execute any and all documents necessary to accept and administer the grant for the Splash Pad at Veterans Memorial Park in accordance with DASNY requirements, subject to review and approval of the Town Attorney's Office.

BE IT FURTHER RESOVLED, the Town Board authorizes the Supervisor to make application as necessary to DASNY for an additional \$50,000 grant for construction of the Splash Pad.

11. **AUTHORIZE THE SUBMISSION OF AN APPLICATION TO THE DEPARTMENT OF STATE 2021 LOCAL GOVERNMENT CITIZENS RE-ORGANIZATION EMPOWERMENT GRANT (CREG) EXPEDITED ASSISTANCE PROGRAM FOR GRANT TO SUPPORT COSTS ASSOCIATED WITH THE EXPANSION OF SERVICES RESULTING FROM THE DISSOLUTION OF THE VILLAGE OF SOUTH NYACK**

WHEREAS, the Town of Orangetown has determined that it is desirable and in the public interest to undertake the necessary activities for the submittal of an application under the 2021 New York State Department of State Local Government Citizens Re-Organization Empowerment Grant (CREG) Expedited Assistance Program to be titled: Town of Orangetown Transition and Implementation Activities Related to the Dissolution of the Village of South Nyack; and

WHEREAS, the voters of the Village of South Nyack elected to dissolve the Village effective March 31, 2022 pursuant to General Municipal Law Article 17-A; and

WHEREAS, the intent of the funds is to provide the Town of Orangetown with financial assistance in the transition and implementation of services for the residents of the Village of South Nyack upon dissolution of the Village; and

WHEREAS, the amount of funds to be requested from the Local Government Citizens Re-Organization Empowerment Grant (CREG) Expedited Assistance Program is an amount not to exceed \$50,000, and

WHEREAS, the CREG program has a required 10% local cash match, now, therefore, be it

RESOLVED, that the Town of Orangetown is the Lead Applicant in an application for financial assistance under the 2021 Local Government Citizens Re-Organization Empowerment Grant (CREG) Expedited ; and be it further

RESOLVED, the Town Board authorizes the submission of the grant and the required local matching funds; and be it further

RESOLVED, the Town Board authorizes the Supervisor to take such further action, and to execute such further documents, as may be necessary to effectuate such grant application submission.

12. ****PLACE HOLDER** AMENDMENT TO FEMA CONTRACT FOR DISASTER RECOVERY CENTER**

(Language to be supplied)

TOWN ATTORNEY

13. ****PLACE HOLDER** APPROVE AGREEMENT WITH VILLAGE OF SOUTH NYACK / HIGHWAY SERVICES**

To Be Provided

HIGHWAY

14. **APPROVE / LEND ASSISTANCE/ VILLAGE OF SUFFERN CHRISTMAS PARADE/ DECEMBER 4, 2021**

RESOLVED, the Superintendent of Highways has forwarded for approval by the Town Board, authorization for the Highway Department to lend assistance which includes the use barricades for the Village of Suffern Christmas Parade on Saturday, December 4, 2021.

15. ****PLACE HOLDER** APPOINT LISA PORCO / RECEPTIONIST / PROVISIONAL / GRADE 3, STEP 1 / HIGHWAY DEPARTMENT / EFFECTIVE NOVEMBER 1, 2021**

RESOLVED, that upon the recommendation of the Superintendent of Highways, appoint LISA PORCO to the position of Receptionist, Provisional, in the Highway Department, Grade 3, Step 1, at a salary of \$41,863.00, effective November 1, 2021.

PARKS AND RECREATION

16. **APPROVE / LEND ASSISTANCE / ST. THOMAS AQUINAS COLLEGE WINTER WONDERLAND / SATURDAY, DECEMBER 4, 2021**

RESOLVED, upon the completion of all necessary paperwork, the Superintendent of Parks & Recreation has forwarded for approval by the Town Board use of the Showmobile by St. Thomas Aquinas College for their Winter Wonderland, Saturday, December 4, 2021, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

17. APPROVE CARETAKER AGREEMENT 2022/ NIKE PARK / 2% INCREASE / LOUIS CAPUTO

RESOLVED, that the caretaker agreement for the property located at 1 Nike Lane, Orangeburg, New York (Nike Park), with a TWO (2%) PERCENT increase, for a fee of ONE THOUSAND TWO HUNDRED THIRTY-FIVE AND 88/100 (\$1,235.88) per month for a term from January 1, 2022 through December 31, 2022, between the Town and LOUIS CAPUTO is hereby approved and the Supervisor is hereby authorized to sign same.

18. APPROVE CARETAKER AGREEMENT 2022 / HENRY V. BORST PARK / 2% INCREASE / BRIAN EDWARDS

RESOLVED, that the caretaker agreement for the property located at 212 North Main Street, Pearl River, New York (Henry V. Borst Park), with a TWO PERCENT (2%) INCREASE for a fee of ONE THOUSAND TWO HUNDRED SEVENTY-THREE AND 23/100 (\$1,273.23) DOLLARS per month, for a term from January 1, 2022 through December 31, 2022, between the Town and BRIAN EDWARDS is hereby approved and the Supervisor is hereby authorized to sign same.

19. APPOINT RACHELE DELISSER / CLERK / PROBATIONARY / EFFECTIVE DECEMBER 01, 2021 / PARKS AND RECREATION

RESOLVED, upon the recommendation of the Superintendent of Parks and Recreation, appoint RACHELE DELISSER to the position of Clerk, probationary, from list #19137(OC) Grade 2, Step 1, at a starting salary of \$39,996,.00, effective December 1, 2021.

HIGHWAY / POLICE / PARKS

20. (PLACE HOLDER) APPROVE/ LEND ASSISTANCE / 2021 PEARL RIVER ROTARY SHARE CHRISTMAS & THE HOLIDAYS / FRIDAY, DECEMBER 10, 2021

RESOLVED, the Superintendent of Highways & Chief of Police, have forwarded approval to the Town Board to authorize these departments to lend assistance which includes, barricades, trash barrels & message board from the Highway Department & police detail from OPD, for the annual Share Christmas and the Holidays Event event to be held on Friday, December 10, 2021 (raindate:12/17/21), from 6pm – 10pm.

RESOLVED, upon the completion of all necessary paperwork, the Superintendent of Parks & Recreation has forwarded for approval by the Town Board use of the Showmobile at a rental cost of \$500.00 by the Rotary Club of Pearl River for their Share Christmas and the Holidays, Friday, December 10, 2021, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

TRAFFIC ADVISORY BOARD

21. APPROVE / INSTALLATION OF STREETLIGHT / INTERSECTION OF KEVIN DRIVE AND CEDAR AVENUE IN ORANGEBURG

RESOLVED, that upon the recommendation of the Traffic Advisory Board, the installation of the streetlight at the intersection of Kevin Drive and Cedar Avenue in Orangeburg (pole # 60524/37928) is hereby approved to be paid from the following budget line item B.5182.452.17.

AUDIT

22. PAY VOUCHERS

RESOLVED, upon the recommendation of the Director of Finance, Jeffrey Bencik, the Finance Office is hereby authorized to pay vouchers for a total amount of **three (3) warrants** (attached) for a total of **\$2,320,197.78**.

EXECUTIVE SESSION

23. ENTER EXECUTIVE SESSION

RESOLVED, at _____ pm, the Town Board entered Executive Session to discuss the proposed acquisition/sale/lease of real property when publicity might affect value and personnel matters.

ADJOURNMENTS

24. RE-ENTER RTBM / ADJOURNED / MEMORY

RESOLVED, at ____ pm, the Town Board re-entered the Regular Town Board Meeting and adjourned in memory of:

- ❖ **Lorraine B. Foley**, *Resident of Tappan*
- ❖ **Seymour Whyman**, *Resident of Blauvelt*