

**TOWN OF ORANGETOWN  
REGULAR TOWN BOARD MEETING MINUTES  
December 12, 2023**

This meeting was opened at 7:00 pm. Supervisor Teresa M. Kenny presided and Rosanna Sfraga, Town Clerk, called the roll.

**Present were:**

Councilperson Thomas Diviny  
Councilperson Paul Valentine  
Councilperson Jerry Bottari  
Supervisor Teresa M. Kenny  
Councilperson Brian Donohue

**Also Present:**

Denis Troy, Deputy Supervisor  
Allison Kardon, Supervisor's Confidential Assistant  
Carmel Reilly, Director of Economic Development & Tourism  
Rosanna Sfraga, Town Clerk  
Joseph Thomassen, Deputy Clerk  
Robert Magrino, Town Attorney  
Jeff Bencik, Finance Director  
James Dean, Superintendent of Highways  
Jane Slavin, Director of OBZPAE  
Eamon Reilly, Commissioner of DEME  
Aric Gorton, Superintendent of Parks, Recreation & Building Maint.  
Matthew Lenihan, Computer Network Specialist  
Brendon Carton, IT Department

**Pledge of Allegiance to the Flag**

**PRESENTATIONS:**

- Sanitation Commission Presentation:  
on Proposed Increase in Garbage Hauler Monthly Rate
- Town of Orangetown Presentation in Honor of Councilman Thomas Diviny

**DISCUSSION:**

Workshop of Agenda Items

**RESOLUTION NO. 641**

**OPEN PUBLIC HEARING / PROPOSED LOCAL LAW AMENDING / TOWN CODE  
CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC  
REGULATIONS, SECTION 39-11(A) HEAVY TRUCKING IN THE HAMLET OF  
PEARL RIVER / OLD MIDDLETOWN ROAD**

**RESOLVED**, that the Public Hearing on a proposed Local Law Amending Chapter 39, Vehicles and Traffic, Article I, Vehicle and Traffic Regulations, Section 39- 11(A)(9) Heavy Trucking in the Hamlet of Pearl River with respect to the enactment of a five-ton vehicle weight restriction on Old Middletown Road between Gilbert Avenue and South Middletown Road is hereby opened.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari,  
Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

Rosanna Sfraga, Town Clerk presented the Affidavits of Publication & Posting, which are labeled Exhibit 12-12-A and made a part of these minutes.

Summary of Public Comments: None

**RESOLUTION NO. 642**

**CLOSE PUBLIC HEARING / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-11(A) HEAVY TRUCKING IN THE HAMLET OF PEARL RIVER / OLD MIDDLETOWN ROAD**

**RESOLVED**, that the Public Hearing on a proposed Local Law Amending Chapter 39, Vehicles and Traffic, Article I, Vehicle and Traffic Regulations, Section 39-11(A)(9) Heavy Trucking in the Hamlet of Pearl River, with respect to the enactment of a five-ton vehicle weight restriction on Old Middletown Road between Gilbert Avenue and South Middletown Road is hereby closed.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 643**

**LEAD AGENCY AND DETERMINATION OF SEQRA / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-11(A) HEAVY TRUCKING IN THE HAMLET OF PEARL RIVER / OLD MIDDLETOWN ROAD**

**RESOLVED**, that the Town Board declares itself Lead Agency in this matter, and further determines that such action is a Type II action pursuant to SEQRA, that the action will not have a significant adverse environmental impact, and, therefore, no further action is necessary with respect thereto under the State Environmental Quality Review Act.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Paul Valentine and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 644**

**ADOPT LOCAL LAW 13, 2023/ AMENDING TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-11(A) HEAVY TRUCKING IN THE HAMLET OF PEARL RIVER / OLD MIDDLETOWN ROAD**

**RESOLVED**, that the Town Board hereby adopts Local Law 13, 2023 to amend the Town Code, Chapter 39, Vehicles & Traffic, Article I, Vehicle and Traffic Regulations, Section 39-11(A) Heavy Trucking in the Hamlet of Pearl River.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**TOWN OF ORANGETOWN  
LOCAL LAW NO. 13, 2023 OF THE  
AMENDING CHAPTER 39 (VEHICLES AND TRAFFIC), ARTICLE I (VEHICLE AND  
TRAFFIC REGULATIONS) OF THE CODE OF THE TOWN OF ORANGETOWN**

Language to be deleted from the existing Code provisions are indicated by a ~~striketrough~~; and new language to be added is typed in **bold and underscored**. All-other language shown is to remain unchanged and is provided for context.

Be it enacted by the Town Board of the Town of Orangetown as follows:

Section 1 – Legislative Findings, Objectives and Purpose of this Local Law No. 13 of 2023: The Town of Orangetown Traffic Advisory Board, having investigated issues related to traffic safety, congestion, speeding, and volume of large and heavy-weight trucks in vicinity of Old Middletown Road in the hamlet of Pearl River, recommends the Town Board adopt this local law amending the Town Code, to prohibit vehicles weighing five-tons or more on Old Middletown between Gilbert Avenue and South Middletown Road in the Hamlet of Pearl River. Having reviewed the recommendations of the Traffic Advisory Board and held a public hearing on the matter, the Town Board finds the enactment of a five-ton weight restriction for vehicles on Old Middletown Road is necessary for traffic safety.

Section 2 – Chapter 39 (Vehicles and Traffic), Article I (Vehicle and Traffic Regulations), §39-11, (Heavy Trucking) of the Code of the Town of Orangetown, shall be amended so as to add subsection “9” of paragraph “A” to Section 39-11, and as amended shall read as follows:

39-11. Heavy trucking.

It shall be unlawful for trucks having a gross weight of vehicle plus load in excess of five tons to travel over the following highways except when engaged in the delivery of merchandise or other property along such highways:

A Hamlet of Pearl River.

- (1) Hunt Avenue from North Middletown Road to North Main Street.
- (2) Brightwood Avenue from North Middletown Road to North Main Street.
- (3) Forest Avenue from North Middletown Road to North Main Street.
- (4) Oriole Street between Orangeburg Road and Blauvelt Road.
- (5) East Central Avenue between North Middletown Road and Oriole Street.
- (6) Colonial Court between Blauvelt Road and Blauvelt Road.
- (7) North Troop Road from Western Highway to Garfield Street.

[Added 11-14-1988 by Ord. No. 11-1988]

(8) South Middletown Road between Central Avenue and the New Jersey State Line.  
[Added 2-24-1997 by L.L. No. 2-1997]

**(9) Old Middletown Road between Gilbert Avenue and South Middletown Road**

Section 3 – This Local Law shall become effective immediately upon filing with the New York State Secretary of State.

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**RESOLUTION NO. 645**

**RESUME PUBLIC HEARING OF NOVEMBER 14, 2023 / PROPOSED ZONE TEXT AMENDMENT FOR LI DISTRICT HOTEL AND STANDALONE FITNESS CENTER PEARL RIVER CAMPUS, LLC d/b/a HUDSON VALLEY iCAMPUS (68.01-1-1)**

**RESOLVED**, that the Public Hearing regarding the Proposed Zone Text Amendment for LI District Hotel and Standalone Fitness Center / Pearl River Campus, LLC d/b/a Hudson Valley iCampus (68.01-1-1) is hereby resumed.

**RESOLUTION NO. 645 - Continued**

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

Summary of Public Comments: None

**RESOLUTION NO. 646**

**CLOSE PUBLIC HEARING REGARDING THE PROPOSED TEXT AMENDMENT FOR LI DISTRICT HOTEL AND STANDALONE FITNESS CENTER / PEARL RIVER CAMPUS, LLC d/b/a HUDSON VALLEY iCAMPUS (68.01-1-1)**

**RESOLVED**, that the Public Hearing is hereby closed.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 647**

**SEQRA / NEGATIVE DECLARATION / LOCAL LAW NO. 14 OF 2023, AMENDING THE TOWN ZONING LAW / LI ZONING / SPECIAL PERMIT USES / STANDALONE FITNESS CENTER AND HOTEL**

**WHEREAS**, the Town Board has considered the adoption of an amendment to Chapter 43, Articles 3, 4 and 11 to permit hotels and standalone fitness centers on parcels of 150 acres or more as a "Special Permit Use" in the LI zoning district, and

**WHEREAS**, on or about, pursuant to Town Board Resolution 2023-467 the Town Board circulated amongst various potential interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review of the above referenced action; and

**WHEREAS**, being the only Involved Agency, the Town Board hereby assumes the role of Lead Agency for environmental review and notes that it considers this action to be a Type I action under the New York State Environmental Quality Review Act (SEQRA); and

**WHEREAS**, acting in its capacity as Lead Agency for environmental review, and after taking a "hard look" at all of the potential environmental impacts that might result from the proposed action, including a Full EAF as submitted by the applicant, the Town Board has concluded that there will be no significant environmental impact or effect caused or occasioned by the proposed change in the zoning classification of the subject parcel affected by the proposed Local Law,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby adopts the Negative Declaration annexed hereto, and authorizes the Town Supervisor or her designated agent to execute the Environmental Assessment Form and to take such other and further steps as may be necessary to discharge the Town Board's responsibilities as Lead Agency.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 648****ADOPT/ LOCAL LAW NO. 14, 2023, AMENDING THE TOWN ZONING LAW / LI ZONING / SPECIAL PERMIT USES / STANDALONE FITNESS CENTER AND HOTEL**

**WHEREAS**, the Town Board of the Town of Orangetown (the “Town Board”) is the duly elected legislative body of the Town, authorized to adopt zoning text amendments to the Town’s Zoning Law; and

**WHEREAS**, the Town Board has considered the adoption of an amendment to Chapter 43, Articles 3, 4 and 11 to permit hotels and standalone fitness centers on parcels of 150 acres or more as a “Special Permit Use” in the LI zoning district, and,

**WHEREAS**, by Resolution No.467 of 2023, after notice duly given, and there being no other involved agency, by resolution duly adopted this 12th day of December, 2023, the Town Board assumed the role of Lead Agency under SEQRA for environmental review, and, acting in its capacity as such, concluded that there will be no significant environmental impact or effect caused or occasioned by the proposed change in the Town’s Zoning Law and determines the issuance of Negative Declaration is appropriate; and

**WHEREAS**, following due notice, a public hearing was conducted on the proposed Local Law; and

**WHEREAS**, the Board has concluded that the proposed text amendments to the zoning code, is consistent with the Town’s 2023 Comprehensive Plan, see page 225, to permit, recognize and regulate uses not previously addressed, and otherwise is in the best interests of the Town and the owner of the parcel, who has requested the change of zoning classification; and

**WHEREAS**, the Town Planning Board, pursuant to Town Code Chapter 43, § 10.5, and the County Planning Department, pursuant to General Municipal Law §§ 239 l & m, have each reviewed the proposed law; and

**WHEREAS**, the Town Planning Board, by Memorandum, dated October 11, 2023 following due consideration at a public meeting held on the same date, has indicated that it had no comment on the proposed local law and

**WHEREAS**, the County Department of Planning, by letter review dated November 8, 2023, has recommended certain modifications to the proposed local law be considered as set forth below:

**Comment 1:** The County found the 150-acre minimum lot area requirement for these new uses to be excessive and recommended the minimum lot size requirements be revised.

**Response:** The 150-acre provision was selected by the applicant to distinguish the uniqueness of the Pearl River Campus from the other properties zoned LI located elsewhere in Town. The Pearl River Campus is a large-scale, comprehensively planned campus, quite distinct in ownership and operation from the other properties in the LI zone, where the parcels are much smaller, and the control of the sites rests in the hands of multiple owners.

The intent of the proposed zoning amendment is to preserve the integrity of the LI zone as an economically important district within the entire Town, while allowing the very large parcels to be utilized in such fashion. Allowing for the proposed uses on smaller scaled sites runs the risk of losing the traditional industrial uses to uses that might be viewed as more economically expeditious in the short term but not sustainable in the long term.

**Comment 2:** The County raised the question of whether the parking requirements for the standalone fitness center is based on the gross floor area of the use, or just the areas used by club members.

**Response:** The parking requirement is based upon the existing floor area definition set forth in Article IX, §11.2 of the Zoning Code. No change is proposed.

**RESOLUTION NO. 648 - Continued**

**Comment 3:** The County recommended the creation of new Special Permit standards for the proposed hotel use in the LI zone.

**Response:** The existing Special Findings for Special Permit Uses established in Article IV, §4.3 of the Zoning Code adequately regulate hotels in the LI district, and no further standards would be necessary.

**Comment 4:** The County noted its concern about the “unintended consequences” of establishing a new definition for a stand-alone fitness center that is limited to a single zone. The Planning Department draws the conclusion that a stand-alone fitness center is the same use as a gym, which while not explicitly defined, they claim is currently a permitted use in the CS -- Community Shopping Center and CC-Retail Commercial zoning districts.

**Response:** The CS and CC zoning district permit "physical fitness studios." This is the category under which all existing gyms exist in Town. The definition as proposed in the local law will be listed for specifically the LI zone, under certain conditions. There is no need to make any additional changes under current conditions.

**Comment 5:** The County indicated the matter should be classified as a Type I action under SEQRA, requiring a Full EAF to be submitted.

**Response:** The applicant has filed a Full EAF which has been referred to the County for review. In addition, included as part of the petition was a study from the planner for the applicant which addressed many issues related to the project. Any potential uses will be subject to use/site specific review as part of the Special Permit and site plan approval processes. The Town Board has classified this as a Type I action under SEQRA.

**A Motion to Override comments 1, 2, 3 and 4 of the Rockland County Department of Planning letter dated November 8, 2023 was made by Councilperson Jerry Bottari, which was seconded by Councilperson Brian Donohue and approved as follows:**

**Motion: 5 - 0**

**Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue**

**Noes: None**

**NOW, THEREFORE, BASED ON ALL OF THE INFORMATION BEFORE THE BOARD, AND THE FINDINGS MADE HEREIN, BE IT RESOLVED,** that the Town Board hereby adopts the within Local Law, amending the Town Code entitled Zoning”, § 11.2; Definitions; § 3.11 “Table of General Use Regulations” and §4.3 “Special Permit Uses” 43, § 2.2. to permit hotels and standalone fitness centers in the LI zoning district on lots having 150 acres or more as set forth more fully in the Local Law.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

**Motion: 5 - 0**

**Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue**

**Noes: None**

**TOWN OF ORANGETOWN  
LOCAL LAW NO. 14 OF 2023 OF THE INCORPORATED TOWN OF ORANGETOWN,  
NEW YORK AMENDING CHAPTER 43 OF THE TOWN CODE ENTITLED  
“ZONING”**

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ORANGETOWN AS FOLLOWS:**

**LOCAL LAW NO. 14, 2023 – Continued**

**Section 1.** Chapter 43, Section 11.2 of the Town of Orangetown Zoning Code, entitled “Definitions” shall be amended by adding a new term entitled “Standalone Fitness Center”, which shall be defined as follows:

**STANDALONE FITNESS CENTER**

A private membership facility designed, intended and used for physical conditioning activities, located within a single occupant building. Such uses may include traditional athletic training facilities, athletic performance analyses, cafes, childcare centers and spas, as well as the sales of necessary equipment used in the activities provided, together with other appropriate accessory uses.

**Section 2.** Chapter 43 Attachment 7 of the Town of Orangetown Zoning Code entitled “Table of General Use Regulations (§ 3.11) LI District” is hereby amended to revise Column 3, “Uses by Special Permit” to permit two additional uses subject to Town Board approval, as follows:

4. Hotels, provided that the minimum lot area is 150 acres.
5. Standalone fitness center, provided that the minimum lot area is 150 acres.

**Section 3.** Chapter 43 Attachment 7 of the Town of Orangetown Zoning Code entitled “Table of General Use Regulations (§ 3.11) LI District” is hereby amended to add two new rows to Column 6, entitled “Minimum Required Off-Street Parking Spaces”, as follows:

18. Hotels – Same as CC
19. Standalone fitness center - 6 per each 1,000 square feet of floor area (not including any floor area devoted exclusively to tennis courts), plus 4 per each tennis court.

**Section 4.** Chapter 43, Section 4.3 of the Town of Orangetown Zoning Code entitled “Special permit uses; special findings and additional requirements and conditions for certain uses” is hereby amended to include one additional use, as follows:

**4.32.(R). Standalone fitness center:**

- i. Standalone fitness centers are permitted in the LI District on lots having a minimum lot area of 150 acres, subject to the following criteria:
  - a) Every application for a stand-alone fitness center use shall include a circulation plan, indicating all internal roadways, all roadways, intersections and driveways bounding the site, all off-street parking and truck loading areas and pedestrian accessways on the site; and also, a traffic survey and analysis, with estimates of on-site traffic generation and its impact, if any, on existing and projected traffic volumes, roadway capacity and highway safety in critical highway locations in the vicinity and proposals related to accommodating such traffic generation in each location, as well as any required on-site or off-site mitigation measures, as may be required by the Town Board.
  - b) Off-street parking and truck loading areas shall be designed pursuant to the requirements of Article VI of the Zoning Code of the Town of Orangetown, and, further, they shall include provisions for landscaping and screening and for landscaped islands within the parking areas in the proportion of 15 square feet for each parking space. Shared parking is encouraged where the peak parking demands of different uses occur at various times of the day.
  - c) The entrance to all off-street parking and truck loading spaces shall be from an internal driveway system and not from a public street.
  - d) On-site bicycle storage racks shall be provided with at least 1 bicycle space per 10,000 square feet of gross building floor area. Where feasible, some or all of this bicycle storage shall be provided within a secure, enclosed bicycle storage space.

**LOCAL LAW NO. 14, 2023 – Continued**

- e) Every application for a stand-alone fitness center use shall include a detailed and specific landscape plan, incorporating native species wherever feasible, showing the proposed treatment of all open areas on the site and, more specifically, analyzing the need for the screening of service areas, outdoor use areas and buffer strip landscaping and how such need will be met on a year-round basis.
- f) Site lighting shall be restricted to the minimum necessary to allow for the appropriate and safe operation of the facility, and shall include automatic controls to turn off exterior lighting when sufficient daylight is available and when lighting is not required during nighttime hours, include fixture integrated lighting controls such as motion sensors to reduce light levels, use cut-off and shielded luminaries to prevent light trespass beyond property lines and unnecessary glare, among other measures.
- g) All intensive outdoor activities shall be set back at least 100 feet from any property line and shall be so located that they shall be reasonably screened from view as denoted in a site plan submitted pursuant to Chapter 21A of the Code of the Town of Orangetown and compatible with the existing or potential use of neighboring properties.

**Section 5.** Chapter 43 Attachment 18, entitled “Notes to Use and Bulk Tables” is hereby amended to add an additional note, as follows:

Note 19: Lots within the LI District having a minimum lot area of 150 acres may contain multiple permitted uses on a single parcel.

**Section 6.** Severability Clause

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid parts.

**Section 7.** Effective Date

This Local Law shall become effective immediately upon being filed with the Secretary of State.

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**RESOLUTION NO. 649**  
**OPEN PUBLIC COMMENT PORTION**

**RESOLVED**, that the public portion is hereby opened.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**Summary of Public Comments:**

Pat Casey, Orangetown PBA, thanked Councilman Diviny for his support to the Orangetown PBA and wished him the best of luck serving as a County Legislator.

Diane Holland, Patti Pacquing, & Jeannine Bergin, NYS Citizen Audit, spoke about how the General Election process is inaccurate and the Town Board to vote on a resolution for an audit (Exhibit 12-12-B).

Michael McLaughlin, Blauvelt, complained that the Town is doing nothing (as they promised) regarding the ongoing issues at 4 Hobbs Drive and served public notice to keep all records.



**RESOLUTION NO. 650**  
**CLOSE PUBLIC COMMENT PORTION**

**RESOLVED**, that the public portion is hereby closed.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Paul Valentine and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 651**  
**EXTEND AUTHORIZATION FOR OUTDOOR DINING / SIDEWALK CAFES**  
**EXTEND RESOLUTION 2020-249; 2020-539; 2021-243; 2021-505; 2023-73**

**WHEREAS** on June 2, 2020 pursuant to Town Board Resolution 2020-249, the Town Board, in response to the economic recovery as a result of the COVID-19 crisis and pursuant to the authority prescribed in Chapter 6-5(F) of the Orangetown Code, authorized the Director of OBZPAE to waive, modify, and adjust certain requirements of Chapter 31B regarding Sidewalk Cafes and Vending, and to suspend enforcement of the zoning regulations and requirements or land use restrictions to obtain an Outdoor Dining Permit, and to maintain required off-street parking for outdoor dining, at a lawful restaurant and food service establishment, and to issue a Temporary Outdoor Dining Permit and

**WHEREAS**, pursuant to Town Board Resolutions 2020-539, 2021-243 and 2021-505 and 2023-73; the Town Board extended the temporary suspension of Section 31B of the Town Code and authorized the Director of OBZPAE to issue Temporary Outdoor Dining permits for various time periods as set forth more fully therein and most recently through and including December 31, 2023, subject to the same terms and conditions of Town Board Resolution 2020-249, and

**WHEREAS**, the COVID-19 crisis and the economic recovery therefrom continues to impact the residents and businesses of the Town of Orangetown and the authorization for outdoor dining and sidewalk cafes have provided relief to the businesses in the Town of Orangetown will providing patrons an opportunity to socialize in a safe setting in accordance with the Governor's guidelines for operations of dining facilities during the COVID-19 crisis,

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board hereby extends the temporary suspension of Section 31B as set forth in Town Board Resolution 2020-249, 2020-539, 2021-243, 2021-505 and 2023-73 authorization to the Director of OBZPAE to issue Temporary Outdoor Dining Permits through and including October 31, 2024, subject to all of the terms and conditions as set forth in Resolution 2020-249, 2020-539, 2021-243, 2021-505 and 2023-73 regardless of previous or future capacity restrictions imposed by the State of New York.

**BE IT FURTHER RESOLVED**, that notwithstanding the foregoing, the combined occupancy of the indoor and outdoor dining for businesses operating under the Temporary Dining Permit, shall not exceed the occupancy limits for the premises related to life safety issues such as fire safety matters and sanitary facilities. Any violation of the terms of the Temporary Outdoor Dining permit as set forth herein shall subject the holder of such Permit to revocation as provided in Resolution 2020-249 and Section 6-5(F) of the Town Code.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 652**  
**AWARD CONTRACT / FST TECHNICAL SERVICES / BUILDING COMMISSIONING**  
**AUTHORITY SERVICES / NEW TOWN HALL ADDITION**

**WHEREAS**, as part of the construction process for the New Town Hall Addition, Calgi Construction, the Town’s construction manager on the project, solicited quotes from five entities to Building Commissioning Authority Services as anticipated as part of the design, construction and other approvals related to the project, and

**WHEREAS**, Calgi Construction has reviewed three proposals that were submitted and recommends that the Town accept the proposal submitted by FST Technical Services dated November 30, 2023

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby finds, upon recommendation of Calgi Construction, that the proposal from FST Technical Services dated November 30, 2023 in the amount of \$40,922.00, is the lowest responsible proposer, and it is in the best interests of the Town to accept this proposal, and

**BE IT FURTHER RESOLVED**, the Town Board hereby accepts the proposal of FST Technical Services dated November 30, 2023 in the amount of \$40,922.00, for Building Commissioning Authority Services and authorize the Supervisor and/or her designee is authorized to execute any documents as necessary to effectuate this resolution, upon approval by the Town Attorney’s Office.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0  
Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue  
Noes: None

**RESOLUTION NO. 653**  
**APPROVE / AGREEMENT WITH WEST PUBLISHING CORP (WESTLAW) / 12-**  
**MONTH EXTENSION**

**RESOLVED**, upon recommendation of the Town Attorney, the Town Board authorizes the execution of a purchase order and agreement with West Publishing Corp, dba West, a Thomson Reuters corporation, to provide legal research services, known as Westlaw, for the Town Attorney’s Office, for a 12 month extension as set forth in the agreement at a cost of \$3,152.00 per month with a yearly increase of 3%, based upon New York State Office of General Services Contract Award # 23044, Contract # PC67676, to be funded through budget line A.1420.445 entitled Books and Publications, and the Town Board hereby authorizes the Town Attorney to execute any documents necessary to effectuate said purchase order and agreement.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Paul Valentine and was Adopted:

Motion: 5 - 0  
Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue  
Noes: None

**RESOLUTION NO. 654**  
**APPROVE / CHANGE FEES & OTHER CHARGES / TOWN CODE, CHAPTER 27**  
**"ROAD EXCAVATIONS, DRIVEWAY & HEAVY HAULING"**

**WHEREAS**, Local Law No. 8-2011, authorizes the Town Board to change by resolution the fees and other charges under Chapter 27 of the Town Code, entitled “Road Excavations, Driveway and Heavy Hauling.” The following changes are being proposed:

**RESOLUTION NO. 654 - Continued**

**BE IT RESOLVED**, that the permit fee under Article I. Regulations Relating to Utility, Town Code § 27-2 (B) Application; fee, shall be \$ 275.00, which includes first inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article I. Regulations Relating to Utility, Town Code § 27-16; Rates for inspection, restoration and maintenance, shall be \$ 180.00 per inspection.

**BE IT FURTHER RESOLVED**, that the permit fee under Article II. Regulations Other Than Utility, Town Code § 27-23 (B); Application; fee, shall be \$ 275.00, which includes first inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article II. Regulations Other Than Utility, Town Code § 27-23 (B); Deposits required, shall be:

Shoulder-to-shoulder openings	\$800
Shoulder to centerline	\$600
Shoulder only openings	\$500
	\$500 (plus \$ 25 per sq. ft. of
Shoulder and paved sidewalk openings	sidewalk impacted

**BE IT FURTHER RESOLVED**, that the charges under Article II. Regulations Other Than Utility, Town Code § 27-37 (A); Rates for inspection, restoration and maintenance, shall be \$180.00 per inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article II. Regulations Other Than Utility, Town Code § 27-37 (B); Rates for inspection, restoration and maintenance shall be \$180.00 per inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article III. Regulations for Driveways and Construction of Connections to Town Roads, Town Code § 27-44 (A), Application fees for new driveway connections, shall be \$ 120.00, which includes first inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article III. Regulations for Driveways and Construction of Connections to Town Roads, Town Code § 27-44 (B), Application fees for existing driveway connections, shall be \$ 120.00, which includes first inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article III. Regulations for Driveway and Construction of Connections to Town Roads, Town Code § 27-46 (A), Road and street connections: permit, shall be \$ 120.00, which includes first inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article III. Regulations for Driveway and Construction of Connections to Town Roads, Town Code A§ 27-46.1, Driveway inspection rates, shall be \$ 130.00 per inspection.

**BE IT FURTHER RESOLVED**, that the charges under Article IV. Regulations for Special Hauling, Town Code § 27-50 (B), Application for permit; fees, shall be \$ 150.00 for the application fee and the hauling fees are as follows: \$ 180.00 for a one-month permit, \$ 325.00 six month permit and \$ 485.00 for a one year permit.

**BE IT FURTHER RESOLVED**, that the Appendix to Chapter 27 of the Town Code should be amended to reflect these in permit fees and that these changes will become effective January 1, 2024.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 655**  
**APPROVE/ HIGHWAY DEPARTMENT GIS FEE INCREASE**

**WHEREAS**, Town Code § Chapter 14 Article V. Fees in Support of Geographic Information System (GIS) Displaying Certain Land Use and Other Municipal Information requires a fee be paid with an application of any type submitted to the Highway Department.

**BE IT RESOLVED**, that effective January 1, 2024 the GIS Fee for applications submitted to the Highway Department shall be \$20.00.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 656**  
**AWARD CONTRACT / SIDEWALK SAWCUTTING / PRECISION SAFE SIDEWALKS**

**RESOLVED**, that upon the recommendation from the Superintendent of Highways, to approve the RFP for Sidewalk Sawcutting to Precision Safe Sidewalks, Arlington, VA, the only qualified bidder to meet Town Specifications, at a cost of \$69.35 per inch/foot, not to exceed \$29,000. Work completed under this contract will be charged to Account #A.5410.457 and paid for out of the 2023 operating budget.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 657**  
**AMEND CONTRACT / ADD FIRE INSPECTION MODULE / BUILDING DEPARTMENT PERMITTING SOFTWARE / TYLER TECHNOLOGIES-ENERGOV**

**WHEREAS**, on August 22, 2023, by Town Board Resolution #444 of 2023, the Town Board authorized the amendment of a contract with Tyler Technologies, Duluth, GA, for the implementation of the Fire Prevention Module as part of the Energov software, subject to Town Attorney review and approval, in the additional amount not to exceed \$8,499 for the software licensing and implementation services, plus an annual cost of \$7,848 for running of the program; and

**WHEREAS**, the actual amounts are as follows: the annual SaaS fees under the original agreement shall increase \$7,848.00; there will be a one-time cost of \$8,499.00 for the software licensing and implementation services, plus an annual cost of \$13,535.00 per-year for running of the program plus payment of \$6.95 per fire permit/inspection conducted;

**NOW THEREFORE, BE IT RESOLVED**, upon the recommendation of the Director of OBZPAE, the Town Board hereby authorizes the Supervisor to execute a three (3) year contract addendum, on behalf of the Town, as proposed and written, with TYLER TECHNOLOGIES to integrate the inspection and record keeping software program and database for OBZPAE and the Bureau of Fire Prevention, for Fire Prevention inspections.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 658****APPROVE/ 2023 ORIGINAL BUDGET RECLASSIFICATION**

**RESOLVED**, that based upon the recommendation of the Finance Director, the Town Board approves the following 2023 Original budget reclassification:

To reclassify General Fund expenditures recorded in the Internal Service Fund

		<b>Original Budget</b>	<b>Final Budget</b>
A.1910.043	Unallocated Insurance Risk	318,487.00	593,487.00
A.9040.800	Workers Compensation. Fringe benefits	808,560.00	533,560.00

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 659****APPROVE / BOILER AND MACHINERY INSURANCE COVERAGE / TRAVELERS**

**RESOLVED**, based on the recommendation of the Director of Finance, the Town hereby authorizes the same to sign an insurance binder for Boiler and Machinery coverage with Travelers at an annual cost of \$18,212. Travelers was the lowest cost bidder.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 660****APPROVE/ LEND ASSISTANCE / VOLUNTEER FIRE ASSOCIATION OF TAPPAN HOLIDAY DRIVE- THRU EVENT / DECEMBER 16, 2023**

**RESOLVED**, upon completion of all necessary paperwork and upon the recommendation from the Superintendent of Highways, that the Town Board hereby authorizes this department to lend assistance which includes the use of barricades, cones and (2) message boards for the Volunteer Fire Association of Tappan's Holiday Drive- Thru Event to be held on Saturday, December 16, 2023 from 4:30pm- 7:30pm.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 661****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 **\$1,206,578.84**.

**RESOLUTION NO. 661 - Continued**

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 662****SET DATE / SPECIAL TOWN BOARD MEETING / PROPOSED INCREASE IN GARBAGE HAULER MONTHLY RATE**

**RESOLVED**, a Special Town Board Meeting is scheduled for Monday, December 18, 2023 at 5:00pm to discussed the proposed increase in garbage haulers monthly rate.

Under new business, Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 663****ENTER EXECUTIVE SESSION**

In attendance, at this Executive Session were Supervisor Kenny, Denis Troy, Councilpersons Tom Diviny, Paul Valentine, Jerry Bottari and Brian Donohue, Robert Magrino, and Jeff Bencik.

**RESOLVED**, at 7:57 pm, the Town Board entered Executive Session to discuss personnel matters.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO.****RE-ENTER RTBM / ADJOURNED / MEMORY**


**RESOLVED**, at 9:15 pm, the Town Board re-entered the Regular Town Board Meeting and adjourned in memory of: **Jeanette Bonardi**, *Resident of Orangeburg and Mother-in-law of Parks Employee Christine Smyth-Bonardi*; **Leonard "Lenny" McGarvey**, *Retired Long-time DEME Employee, Father of DEME Employee Kevin McGarvey, Sr. and Grandfather of DEME Employee Kevin McGarvey, Jr. and Eileen Quinn, Resident of Nanuet.*

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

  
Rosanna Sfraga, Town Clerk

**DATE: December 12, 2023**

## Warrant Reference

Amount

**Approved for payment in the amount of**

112423	\$	62,830.30
120723	\$	47,429.41
121223	\$	1,096,319.13
	\$	1,206,578.84

**APPROVAL FOR PAYMENT**

## AUDITING BOARD

**Councilman Paul Valentine**

**Councilman Brian Donohue**

**Supervisor Teresa M. Kenny**

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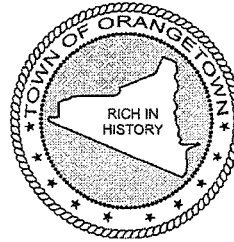


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**TOWN OF ORANGETOWN  
FINANCE OFFICE MEMORANDUM**

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**TO:** THE TOWN BOARD  
**FROM:** JEFF BENCIK, *DIRECTOR OF FINANCE*  
**SUBJECT:** AUDIT MEMO  
**DATE:** 12/8/2023  
**CC:** DEPARTMENT HEADS



The audit for the Town Board Meeting of 12/12/2023 consists of 3 warrants for a total of \$1,206,578.84.

The first warrant had 46 vouchers for \$62,830 and was for utilities.

The second warrant had 181 vouchers for \$1,096,319 and had the following items of interest.

1. A+ Technology (p1) - \$5,547 for IT equipment.
2. AKRF (p2) - \$6,421 for drainage review escrow.
3. Applied Business Systems (p8) - \$5,810 for tax bills.
4. Capasso & Sons (p12) - \$90,817 for recycling.
5. Clarity Water Technologies (p13) - \$9,175 for cooling towers.
6. Corsi Tire (p15) - \$5,888 for new tires.
7. Cotter (p15) - \$6,325 for title inspections.
8. Crown, Castle Fiber (p15) - \$6,748 for connectivity.
9. CSEA Employee Benefit Fund (p16) - \$33,663 for dental benefits.
10. DeNooyer Chevrolet (p17) - \$93,688 for Police vehicles.
11. Fanshawe (p20) - \$37,315 for new town hall electrical.
12. Furniture Pro Corp. (p22) - \$18,070 for furniture for new town hall.
13. Mediastar Inc. (p36) - \$78,935 for new town hall A/V equipment.
14. MetLife (p37) - \$14,869 for Police dental benefits.
15. S&L Plumbing & Heating (p47) - \$11,970 for new town hall HVAC.
16. Vanas Construction (p54) - \$403,986 for new town hall GC services.

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17. Verde Electric (p54) - \$5,600 for traffic signal maintenance.
18. Virtuit Systems (p55) - \$20,938 for IT cables for new town hall.
19. WW Grainger (p59) - \$6,759 for supplies.
20. Zarin & Steinmetz (p61) - \$11,133 for outside legal counsel.

The third warrant had 1 vouchers for \$47,429 and was for architectural design services by Lothrop Associates.

Please feel free to contact me with any questions or comments.

Jeffrey W. Bencik, CFA

845-359-5100 x2204

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EXHIBIT  
12-12-A

STATE OF NEW YORK }  
COUNTY OF ROCKLAND }  
TOWN OF ORANGETOWN }

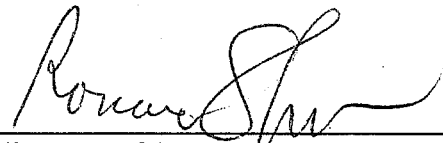
SS.

Rosanna Sfraga being duly sworn upon her oath deposes and says;

That, she is, at all times, hereinafter mentioned was, duly elected,  
Qualified and acting Town Clerk of the **TOWN OF ORANGETOWN**, in the County of  
Rockland, State of New York.

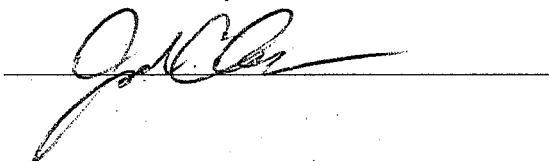
That, on the 21<sup>ST</sup> day, November, 2023, she caused to be conspicuously posted  
and fastened up a notice, a true copy of which is annexed hereto and made a part of  
hereof, in the following places, at least one of which is a public place within the **TOWN  
Of ORANGETOWN**, New York.

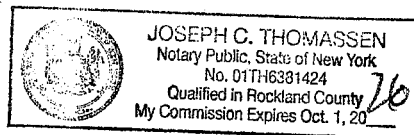
1. Town Hall Bulletin Boards
- 2.
- 3.
- 4.
- 5.

  
\_\_\_\_\_  
Rosanna Sfraga, Town Clerk

Subscribed and sworn to before me

This 21<sup>st</sup> day of November, 2023

  
\_\_\_\_\_



**TOWN OF ORANGETOWN  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that pursuant to a resolution of the Town Board of the Town of Orangetown, duly adopted at a meeting held November 14, 2023, a public hearing will be held by the Town Board on a proposed Local Law amending Chapter 39, Vehicles and Traffic, Article I, Vehicle and Traffic Regulations, Section 39-11(A)(9) Heavy Trucking in the Hamlet of Pearl River with respect to the enactment of a five-ton vehicle weight restriction on Old Middletown Road between Gilbert Avenue and South Middletown Road. This public hearing is scheduled for the 12<sup>th</sup> day of December, 2023 at 7:05 pm, Orangetown Town Hall, 26 W Orangeburg Rd, Orangeburg, NY.

At the time and place of the public hearing specified above, all interested persons will be given the opportunity to be heard.

By order of the Town Board of the Town of Orangetown.

Dated: November 21, 2023

Rosanna Sfraga, Town Clerk  
Robert Magrino, Town Attorney

## AFFIDAVIT OF PUBLICATION

State of Wisconsin  
County of Brown

Linda Tutt being duly sworn, deposes and says she is the Principal Clerk of The Journal News, Division of Gannett Newspaper Subsidiary, publishers of following newspaper published in Westchester and Rockland Counties, State of New York, of which annexed is a printed copy, out from said newspaper has been published in said newspaper editions dated:

11/27/2023

Linda Tutt

Subscribed and sworn to before me this 27 day of November, 2023

Kaitlyn Felty  
exp: 3/7/27

Notary Public  
State of Wisconsin, County of Brown

KAITLYN FELTY  
Notary Public  
State of Wisconsin

**TOWN OF ORANGETOWN  
NOTICE OF PUBLIC HEARING**

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At the time and place of the public hearing specified above, all interested persons will be given the opportunity to be heard.

By order of the Town Board of the Town of Orangetown.

Dated: November 21, 2023

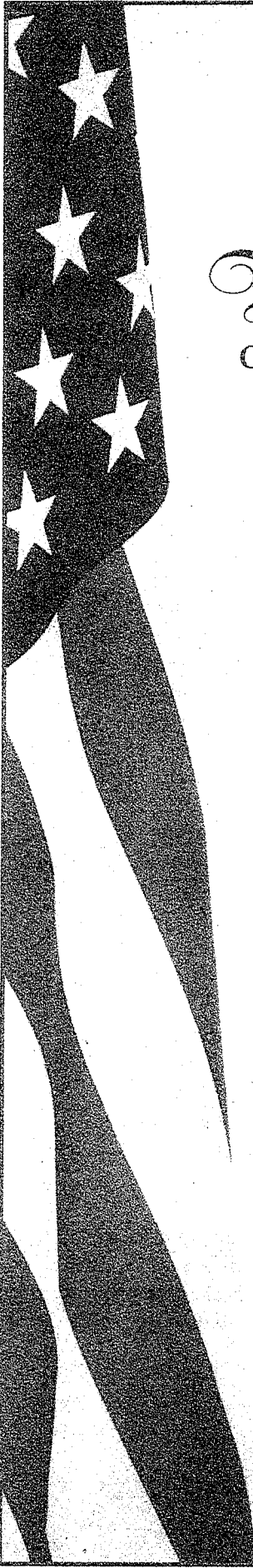
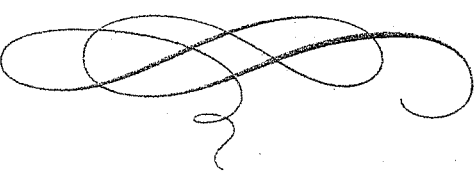
Rosanna Sfraga, Town Clerk  
Robert Magrino, Town Attorney  
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# Resolution for an Audit of the New York State 2022 General Election

SECOND EDITION

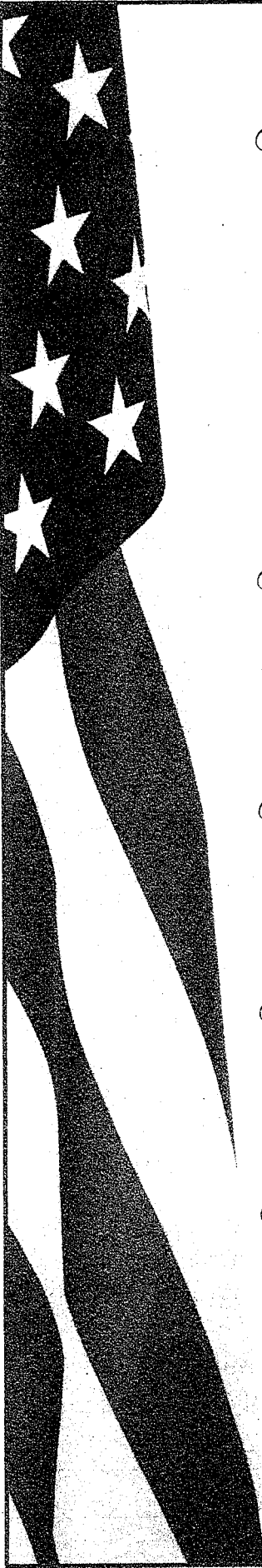


**Whereas** It is a recognized civil right in the United States for every citizen to have free and fair elections. "And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." (Reynolds v. Sims, 377 U.S. 533 (1964))

**Whereas** It is the affirmative duty of our election officials to comply with all Federal and State laws governing administration and procedure of our elections, thereby guaranteeing our elections are accurate and free from distortion or manipulation. "Congress seeks...to guard the election of members of Congress against any possible unfairness by compelling...everyone concerned in holding the election to a strict and scrupulous observance of every duty devolved upon him while so engaged... The evil intent consists in disobedience to the law." (In Re Coy, 127 U.S. 731 (1888)).

**Whereas** Our constitutional system of representative government only works when the worth of honest ballots is not diluted by invalid ballots procured by corruption, and assuring accuracy can only be achieved through fealty to those laws governing the following four tenets of an election:

1. The Voter Rolls Must Be Accurate (National Voter Registration Act, 1993).
2. Votes Counted Must Be From Eligible Voters (US Constitution, Fourteenth Amendment).
3. The Number of Votes Counted Must Equal the Number of Voters Who Voted.
4. There Can Be No More Than One in 125,000 Ballots in Error by the Voting System (Help America Vote Act, 2002).



**Whereas** An open-source audit of the New York State 2022 General Election conducted by New York Citizens Audit has uncovered evidence of massive inaccuracies that violate both Federal and State laws, including:

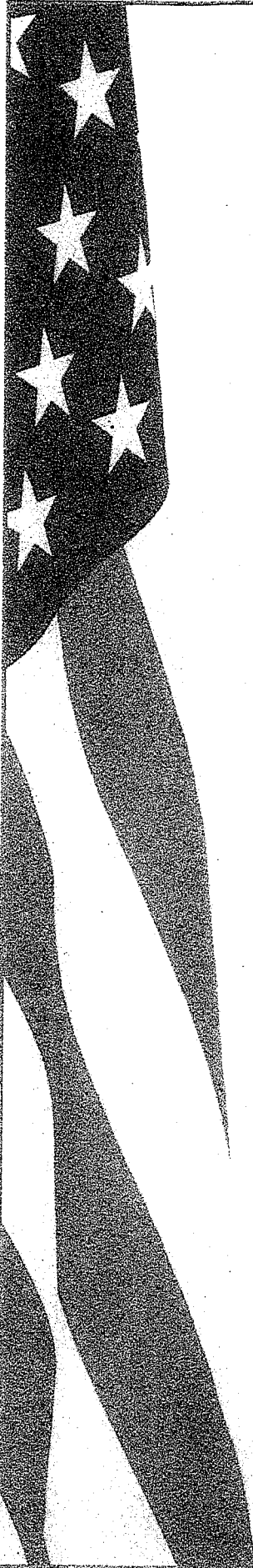
- ♦ **5,142,950** ineligible or uncertain registration violations found within the NY State voter roll database.
- ♦ **732,359** votes cast by ineligible or uncertain registrants.
- ♦ **35,312** more votes counted than voters who voted in the 2022 general election. No one knows who cast them.
- ♦ **745,246** apparent voting violations in excess of the legal standard of system accuracy for a valid federal election. For the 2022 election in New York this number was **48**.
- ♦ Certification as defined by law, an attestation of accuracy and compliance, appears to have been fraudulent and illegal.

**Whereas** These findings trample accuracy requirements of voting systems for a Federal Election, wherein the system shall achieve a target error rate of no more than one in 10,000,000 ballot positions, or one in 125,000 ballots. For a voting system, accuracy is defined as the ability of the system to capture, record, store, consolidate and report the specific selections and absence of selections, made by the voter for each ballot position without error.

**Whereas** It must be known factually, and provably, that the intent of the voters is accurately represented by election results before certification can be lawfully conducted. Certification of an election that varies from the law is an abridgement of the civil rights of the citizens, a Fraud ab Initio. (United States v. Throckmorton, 98 U.S. 61 (1878)).

**Whereas** State and Federal Officials have met the efforts of New York Citizens Audit to seek redress for these egregious violations with indifference and inaction, including the Attorney General, Secretary of State, State Board of Elections, Inspector General, Federal Bureau of Investigations, State Leadership of Democrat and Republican parties, County Election Officials, Sheriffs, District Attorneys, and others.

**Whereas** None of the reported 2020 violations were addressed prior to the administration and certification of the 2022 General Election, and there prevails a spirit of extreme contention and zero trust between people of differing political ideologies across New York, which is destructive to our families, our way of life, and the fabric of these United States.



**Therefore** We call upon our Representatives including Town Board Members, County Legislators, State Legislators, Federal Legislators, Law Enforcement, Federal and State Prosecutors, and Judges to provide relief to the people, and the assurance of domestic tranquility, through the fulfillment of each of the following firm requests:

1. A complete end-to-end audit, from registration through certification, of the New York State 2022 General Election, for both paper and electronic records, including ballots, by a mutually agreed upon external, third-party bonded auditing firm, possessed of adequate insurance and indemnification for the handling and protection of the personal identifying information of millions of New York citizens, in order to determine the true error rate. This audit will provide a comprehensive report and analysis of all lapses and errors with explanation of cause where it can be determined.
2. The enactment of legislation defining a mutually agreed upon process by which an end-to-end audit would be triggered in any future elections.
3. The enactment of legislation defining a mutually agreed upon accuracy rate for the voter roll databases.
4. The enactment of legislation allowing for anonymous vote verification and tracking by the voter (open-source, royalty-free patent pending), including automatic mechanisms to report and remedy errors during the canvass period following an election, regardless of ballot entry source.
5. Criminalize election misconduct explicitly with regard to State election law, and increase penalties to reflect the societal and generational harms inflicted by these crimes.

— Resolution on following page —



# Appendix to the Resolution

## Research Sources for the Open-Source Audit by New York Citizens Audit:

- A copy of NYSVoter database obtained via FOIL request from the NYS Board of Elections on December 19, 2022.
- 2022 Certified Statewide General Election Results, downloaded from the official website of the NYSBOE.

## Relevant Laws applicable to an End-to-End Audit:

- US Constitution; Article 1, Section 4.
- H.R. 2 The National Voter Registration Act of 1993 (Pub. L. 103-31).
- H.R. 3295 The Help America Vote Act of 2002 (Pub.L. 107-252).
- Federal Election Assistance Commission Voting System Standards Volume I: Performance Standards, April, 2002.
- Federal Information Security Modernization Act of 2014 (Public Law 113-283). originally Federal Information Security Management Act of 2002 (Public Law 107-347 (Title III)).
- National Institute of Standards and Technology SP 800-53: Security and Privacy Controls for Information Systems and Organizations.
- FIPS 199 - Standards for Security Categorization of Federal Information and Information Systems.
- U.S. Code: Title 52; Subtitle I—Voting Rights (§§ 10101 - 10702), Subtitle II—Voting Assistance and Election Administration (§§ 20101 - 21145) including:
  - ◆ 52 USC §10101(b)—Intimidation, threats, or coercion.
  - ◆ 52 USC §10307(c)—False Information in, and Payments for, Registering and Voting.
  - ◆ 52 USC §20701—Retention and preservation of records and papers by officers of elections.
  - ◆ 52 USC §20702—Theft, destruction, concealment, mutilation, or alteration of records or papers.
  - ◆ 52 U.S. Code § 21081—Voting systems standards (HAVA).
  - ◆ 52 U.S. Code § 21083—Computerized statewide voter registration list requirements and requirements for voters who register by mail.
- 18 USC §241—Conspiracy Against Rights.
- 18 USC §242—Deprivation of Rights Under Color of Law.
- 18 USC §1519—False Records in the Administration of a Federal Matter.
- 18 USC §1028A—Aggravated Identity Theft.
- 18 USC § 514—Fictitious obligations.
- Consolidated Laws of New York; Chapter 17, Elections.
- New York Codes, Rules, and Regulations; Title IX Executive Department, Subtitle V—State Board of Elections.
- NY Penal Law, Part 3, Title K § 190.80 Identity theft in the first degree.
- NY Penal Law, Part 3, Title K §170.10 forgery in the second degree.



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