

LEGISLATIVE & RULES COMMITTEE

AGENDA

MAY 2, 2019

*Committee Members: Supervisors Strough, Leggett, Braymer, Wild, McDevitt, Diamond, Dickinson, Geraghty, Magowan, Sokol and Driscoll*

- I. Committee meeting called to order by Chairman
- II. Motion to approve the minutes of the prior meeting - *March 1, 2019*
  
- III. Action Agenda/New Business Items:
  - 1) Orange County Legislature Resolution No. 45 of 2019, Calling for NYS Legislative Action to Classify as Controlled Substances Certain Fentanyl "Analogues" that are Responsible for Opioid Overdose Deaths.
  - 2) Orleans County Legislature Resolution No. 106-219, Opposing Assembly Bill A.1413 - An Act to Amend the General Municipal Law in Relation to Prohibiting Firearms as Prizes in any Game of Chance.
  - 3) Essex County Board of Supervisors Resolution No. 98 of 2019; Town of Arietta Resolution No. 19-03-13; and Adirondack Local Government Review Board Resolution, In Support of Snowmobiling and Increasing Snowmobile Trail Miles in the Adirondacks.
  - 4) Adirondack Park Local Government Review Board Resolution No. 2 of 2019; and Madison County Board of Supervisors Resolution No. 19-148, Calling on Governor Andrew M. Cuomo and the New York State Legislature to Address the Lack of Cellular Phone Coverage for all New York State Residents and Visitors.
  - 5) Tioga County Legislature Resolution No. 117-19; Schoharie County Board of Supervisors Resolution No. 41 of 2019; and Orleans County Legislature Resolution No. 103-319, Urging New York State to Fund all Costs Associated with New State Enacted Voting Reforms Implemented at the County Level.
  - 6) Schuyler County Legislature Resolution No. 110 of 2019; Seneca County Board of Supervisors Resolution No. 68-19; and Tioga County Legislature Resolution No. 118-19, Opposing New York State Senate Bill S.1947 and New York State Assembly Bill A.1261 Related to Hours, Wages and Supplements in Contracts for Public Work
  
- IV. Discussion Items:
  - 1) Redistribution of sales tax revenues in Warren County.
  
- V. Referrals/Pending Items:
  - 1) Referral from the Environmental Concerns and Real Property Tax Services Committee regarding a local law to establish sustainable energy loan program
  
- VI. Privilege of the Floor to discuss any additional items to come before the Committee
  
- VII. Motion to adjourn

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Attachments:

- 1) Orange County Legislature Resolution No. 45 of 2019 (*Action Agenda Item 1*)
- 2) Orleans County Legislature Resolution No. 106-219 (*Action Agenda Item 2*)
- 3) Essex County Board of Supervisors Resolution No. 98 of 2019 (*Action Agenda Item 3*)
- 4) Town of Arietta Resolution No. 19-03-13 (*Action Agenda Item 3*)
- 5) Adirondack Park Local Government Review Board Resolution (*Action Agenda Item 3*)
- 6) Adirondack Park Local Government Review Board Resolution No. 2 (*Action Agenda Item 4*)
- 7) Madison County Board of Supervisors Resolution No. 19-148 (*Action Agenda Item 4*)
- 8) Tioga County Legislature Resolution No. 117-19 (*Action Agenda Item 5*)
- 9) Schoharie County Board of Supervisors Resolution No. 41 of 2019 (*Action Agenda Item 5*)
- 10) Orleans County Legislature Resolution No. 103-319 (*Action Agenda Item 5*)
- 11) Schuyler County Legislature Resolution No. 110 of 2019 (*Action Agenda Item 6*)
- 12) Seneca County Board of Supervisors Resolution No. 68-19 (*Action Agenda Item 6*)
- 13) Tioga County Legislature Resolution No. 118-19 (*Action Agenda Item 6*)
- 14) Fact sheet and draft local law from NYSERDA (*Referral Item 1*)

## ORANGE COUNTY LEGISLATURE

**Committees:** Rules, Enactments and Intergovernmental Relations; Public Safety and Emergency Services

**Sponsors:** Faggione, Bonelli, Paduch, Amo, Cheney, Hines, Kulisek, Vero, Stegenga, Sierra, Sassi, Luján

**Co-Sponsors:** Benton, Minuta, O'Donnell, Ruszkiewicz, Sutherland, Tuohy, Brescia

Agenda No. 39

## RESOLUTION NO. 45 OF 2019

**RESOLUTION CALLING FOR NEW YORK STATE LEGISLATIVE ACTION TO CLASSIFY AS CONTROLLED SUBSTANCES CERTAIN FENTANYL "ANALOGUES" THAT ARE RESPONSIBLE FOR OPIOID OVERDOSE DEATHS.**

**WHEREAS**, for nearly a decade, Orange County, New York State, and the rest of the United States have been experiencing an unprecedented epidemic in the abuse of legal and illegal opioid drugs, resulting in, nationwide, the addiction of millions of people and the overdose deaths of hundreds of thousands; and

**WHEREAS**, in Orange County, as of November 27, 2018, 102 people have died this year alone from overdoses of opioid drugs, more deaths than occurred from opioid overdoses in the County in all of 2017; and

**WHEREAS**, fentanyl, a prescription opioid painkiller that is a controlled substance in the State of New York, is responsible for some of those overdose deaths, as are many substances known as fentanyl "analogues," drugs that have been designed to mimic the pharmacological effects of fentanyl, but that are not controlled substances in the State of New York because they are not listed on the appropriate schedules that classify controlled substances in New York State Public Health Law Section 3306; and

**WHEREAS**, of the one hundred and two (102) opioid-related overdose deaths that have occurred in Orange County so far in 2018, **EIGHTEEN (18) were the result, in part, of the deceased's use of one or more fentanyl analogues that were not controlled substances and, hence, were not illegal when the deceased used them;** and

**WHEREAS**, the ability of law enforcement officers in New York State to investigate and prosecute sellers of deadly opioid drugs is hampered by the gap in the law that results in some fentanyl analogues not being classified as controlled substances because the New York State Legislature has not acted to add those analogues to the appropriate Public Health Law schedules; and

**WHEREAS**, under federal law, pursuant to 21 CFR Section 1308.11(h)(30)(i), the Administrator of the United States Drug Enforcement Administration has lawfully defined "fentanyl-related substance" to mean any substance related to fentanyl by certain specified chemical modifications; and



**WHEREAS**, if New York State classified as controlled substances any substances that meet the above federal definition of "fentanyl-related substance," the aforementioned gap in the law with regard to fentanyl analogues would largely be closed, and law enforcement would be able to investigate and prosecute sellers of currently-legal fentanyl analogues that are responsible for many of the overdose deaths;

**NOW, THEREFORE**, be it hereby

**RESOLVED**, that We, the Orange County Legislature, do hereby call on the State of New York, New York Governor Andrew Cuomo, the New York State Senate, and the New York State Assembly, to amend New York Public Health Law Section 3306 to include as a controlled substance any substance that meets the definition of "fentanyl-related substance," as defined in 21 CFR Section 1308.11(h)(30)(i); and it is further

**RESOLVED**, that the Clerk of the Orange County Legislature forward a certified copy of this resolution to the Honorable Andrew M. Cuomo, Governor of the State of New York; the Speaker of the New York State Assembly; the Majority Leader of the New York State Senate; and all Senators and Assembly Members whose Legislative Districts are in whole or in part in Orange County; Stephen A. Acquario, Esq., Executive Director of New York State Association of Counties and to the Legislative Clerk for each County in New York State so that they may be apprised of this Legislature's action and take appropriate action.

**DATED: FEBRUARY 7, 2019**

ADOPTED BY THE FOLLOWING VOTE:

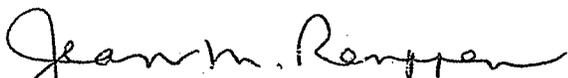
Ayes 19; Noes 0; Abstention 2

(Abstention: Anagnostakis, Tautel)

**STATE OF NEW YORK  
COUNTY OF ORANGE**

**THIS IS TO CERTIFY THAT I, JEAN M. RAMPEN**, Clerk of the County Legislature of said County of Orange, have compared the foregoing copy of resolution with the original resolution now on file in my office and which was passed by the County Legislature of said County of Orange on the 7th day of February, 2019, and that the same is a correct and true transcript of such original resolution and the whole thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the official seal of said County Legislature this 8th day of February, 2019.

  
\_\_\_\_\_  
(Clerk of the County Legislature of the County of Orange)

ORLEANS COUNTY LEGISLATURE

ALBION, NEW YORK

**RESOLUTION NO. 106-219**

OPPOSING ASSEMBLY BILL A1413 AN ACT TO AMEND THE GENERAL MUNICIPAL LAW, IN RELATION TO PROHIBITING FIREARMS AS PRIZES IN ANY GAME OF CHANCE

WHEREAS, the assault on the rights and culture of upstate New Yorkers has reached a breakneck pace under the New York City-centric leadership of New York State's Legislative and Executive branches; and

WHEREAS, Fire Departments and charitable organizations in Orleans County very often carry out gun raffles in which the common instruments of game hunting are raffled off to benefit the first responders of the community as they attempt to equip their volunteer citizens with suitable equipment to save lives and property when pressed into service; and

WHEREAS, New York State has already eliminated the bake sale of Mom's Apple Pie as a possible form of fundraising for Fire Departments and charitable organizations through Public Health regulations; and

WHEREAS, the rationale of the bill's sponsor linking fire department fund raising to gun violence is non-scientific, completely unproven and amounts to anecdotal grandstanding at the expense of real people carrying out real service to the community; and

WHEREAS, the continued oppression of upstate culture and values by the government of the state of New York is a form of tyranny and is entirely unacceptable in any form; now be it

RESOLVED, that the Orleans County Legislature opposes Assembly Bill A1413 and the tyranny it represents; and be it further

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of this Board to Governor Andrew Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Robert Ort and Assemblyman Steve Hawley, Assemblyman Michael Norris, the New York State Association of Counties, Association of Municipalities and all others deemed necessary and proper.

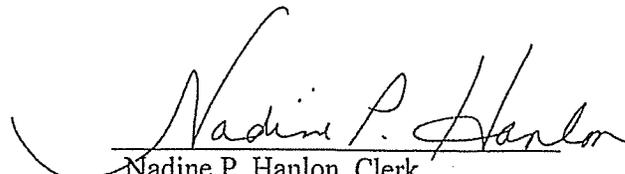
Moved, Allport; second, Draper.  
Adopted. 6 ayes; 0 nays; 1 absent, Eick.

COUNTY OF ORLEANS  
STATE OF NEW YORK

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Orleans County Legislature on the 27<sup>th</sup> day of February 2019.

Dated at Albion, New York  
February 28, 2019



  
Nadine P. Hanlon, Clerk  
Orleans County Legislature  
County of Orleans, New York



## Essex County Board of Supervisors

Resolution No. 98

April 1, 2019  
Regular Board Meeting

### RESOLUTION IN SUPPORT OF SNOWMOBILING AND INCREASING THE SNOWMOBILE TRAIL MILES IN THE ADIRONDACKS TO THE LEGISLATURE

The following resolution was offered by Supervisor Jackson, who moved its adoption.

Upon a motion to consider from the floor, and the same appearing proper and necessary.

**WHEREAS**, snowmobiling is a critically important part of the Adirondack winter economy; and

**WHEREAS**, on July 26, 1972, Governor Nelson A. Rockefeller issued a press release, upon signing the Adirondack State Land Master Plan (SLMP), that states in part that about 20 miles of snowmobile trails in areas classified as Wilderness by the SLMP will be closed and replaced in areas outside the Wilderness and Primitive classified land, and that an additional 930 miles of snowmobile trails located in other classifications will remain; and

**WHEREAS**, since the SLMP was adopted in 1972, the State of New York has purchased nearly 350,000 additional acres of Forest Preserve land, which at the time of purchase, had many miles of community snowmobile trails that were not part of the State snowmobile trail system; and

**WHEREAS**, the SLMP does not create a cap on snowmobile trail mileage but states there will be no material increase in snowmobile trail mileage that existed in 1972, allowing for snowmobile trails on newly-acquired State lands to remain; and

**WHEREAS**, the arbitrary 848.88 miles of snowmobile trail miles that the Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) use as a cap is not supported by Governor Nelson A. Rockefeller's promise to the people of the State of New York in 1972, which assured the people of the State of New York that they would have a minimum of 950 miles of snowmobile trails in the Adirondacks; and

**WHEREAS**, the DEC has, during Unit Management Plan adoption, called for the closing of snowmobile trails for various reasons, while identifying replacement snowmobile trails; and

**WHEREAS**, upon adoption of the Unit Management Plans, the targeted snowmobile trails are closed, leaving the people of the State of New York waiting years in some cases for the replacement trails to be built.

**NOW, THEREFORE, BE IT RESOLVED**, the Essex County Board of Supervisors hereby calls upon the DEC and the APA to abandon the snowmobile mileage cap, allowing any snowmobile trails on State lands acquired after 1972 to remain as long as those lands are not Wilderness or Primitive; and

**BE IT FURTHER RESOLVED**, the Essex County Board of Supervisors hereby calls upon the DEC to stop the practice of closing snowmobile trails identified in Unit Management Plans, for replacement, until the new trails are built and ready for use; and

**BE IT FURTHER RESOLVED**, that copies of this Resolution be forwarded to Governor Andrew Cuomo, New York State Department of Environmental Conservation Commissioner Basil Seggos, Senate Majority Leader Andrea Stewart-Cousins, Senate Minority Leader John Flanagan, Assembly Speaker Carl Heastie, Senator Elizabeth O'C. Little, Assemblyman Daniel Stec, all Adirondack Counties and Association of Adirondack Towns and Villages.

This resolution was unanimously seconded and duly adopted.

STATE OF NEW YORK, COUNTY OF ESSEX )ss:

I, JUDITH A. GARRISON, Clerk of the Essex County Board of Supervisors, do hereby certify that I have compared the foregoing copy with the original resolution filed in this office on the 1st day of April, 2019, and that it is a correct and true copy thereof.

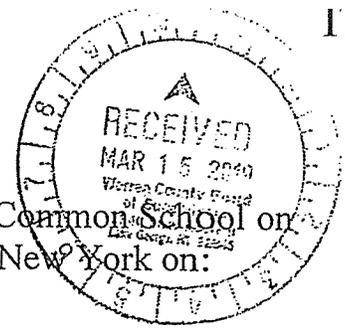
IN TESTIMONY THEREOF, I have hereunto set my hand and affixed my official seal this 1st day of April, 2019.



*Judith A. Garrison*  
 Judith A. Garrison  
 Clerk of the Essex County Board of Supervisors

**TOWN OF ARIETTA**

At a regular meeting of the Arietta Town Board at the Piseco Common School on  
1722 State Route 8 in the Town of Arietta, Hamilton County, New York on:



March 4, 2019 at 5:00pm

Resolution #        19 – 03 - 13

**Subject:     In Support of Snowmobiling and Increasing Snowmobile Trail Miles in the Adirondacks**

Resolution Offered By:   M Knapp  

WHEREAS, snowmobiling is a critically important part of the Adirondack winter economy; and,

WHEREAS, on July 26, 1972, Governor Nelson A. Rockefeller issued a press release upon signing the Adirondack State Land Master Plan (SLMP), that states in part that about 20 miles of snowmobile trails in areas classified as Wilderness by the SLMP will be closed, and replaced in areas outside the Wilderness and Primitive classified land, and that an additional 930 miles of snowmobile trails located in other classifications will remain; and,

WHEREAS, since the SLMP was adopted in 1972, the State of New York has purchased nearly 350,000 additional acres of Forest Preserve land, which at the time of purchase had many miles of community Snowmobile trails that were not part of the State snowmobile trail system; and,

WHEREAS, the State Land Master Plan does not create a cap on snowmobile trail mileage, but states there will be no material increase in snowmobile trail mileage that existed in 1972, allowing for snowmobile trails on newly acquired State lands to remain; and,

WHEREAS, the arbitrary 848.88 miles of snowmobile trails miles that DEC and APA use as a cap is not supported by Governor Nelson A. Rockefeller's promise to the people of the State of New York in 1972, which assured the people of the State of New York that they would have a minimum of 950 miles of snowmobile trails in the Adirondacks; and,

WHEREAS, DEC has, during Unit Management Plan adoption called for the closing of snowmobile trails for various reason, while identifying replacement snowmobile trails; and,

WHEREAS, upon adoption of the Unit Management Plans the targeted snowmobile trails are closed, leaving the people of the State of New York waiting years in some cases for the replacement trails to be built;

RESOLVED, the Town of Arietta, Town Board hereby calls upon DEC and APA to abandon the snowmobile mileage cap, allowing any snowmobile trails on State Lands acquired after 1972 to remain as long as those lands are not Wilderness or Primitive; and it is further,

RESOLVED, the Town of Arietta, Town Board calls upon DEC to stop the practice of closing snowmobile trails identified in Unit Management Plans, for replacement, until the new trails are built and ready for use; and it is further,

RESOLVED, that copies of this Resolution be forwarded to Governor Andrew Cuomo, DEC Commissioner Basil Seggos, Senate Leader Majority Stewart-Cousins, Senate Minority Leader Flanagan, Assembly Speaker Heastie, All Adirondack State Legislators and Town Supervisors, All Adirondack Counties, the Association of Adirondack Towns & Villages.

Seconded by:     C Wilt     and put to a vote, which resulted as follows:

AYES:

Jacquelyn Grier	x	_____
Sarah Rudes	x	_____
Michael Knapp	x	_____
Christy Wilt	x	_____
Richard Wilt	x	_____

NOES:

Jacquelyn Grier	_____
Sarah Rudes	_____
Michael Knapp	_____
Christy Wilt	_____
Richard Wilt	_____

Kenneth Parlow, Town Clerk

Date \_\_\_\_\_ 2019



Executive Director  
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Chairman  
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Director of Communication  
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## RESOLUTION IN SUPPORT OF SNOWMOBILING AND INCREASING SNOWMOBILE TRAIL MILES IN THE ADIRONDACKS

WHEREAS, snowmobiling is a critically important part of the Adirondack winter economy; and,

WHEREAS, on July 26, 1972, Governor Nelson A. Rockefeller issued a press release, upon signing the Adirondack State Land Master Plan (SLMP), that states in part that about 20 miles of snowmobile trails in areas classified as Wilderness by the SLMP will be closed, and replaced in areas outside the Wilderness and Primitive classified land, and that an additional 930 miles of snowmobile trails located in other classifications will remain; and,

WHEREAS, since the SLMP was adopted in 1972, the State of New York has purchased nearly 350,000 additional acres of Forest Preserve land, which at the time of purchase had many miles of community Snowmobile trails that were not part of the State snowmobile trail system; and,

WHEREAS, the State Land Master Plan does not create a cap on snowmobile trail mileage, but states there will be no material increase in snowmobile trail mileage that existed in 1972, allowing for snowmobile trails on newly acquired State lands to remain; and,

WHEREAS, the arbitrary 848.88 miles of snowmobile trail miles that DEC and APA use as a cap is not supported by Governor Nelson A. Rockefeller's promise to the people of the State of New York in 1972, which assured the people of the State of New York that they would have a minimum of 950 miles of snowmobile trails in the Adirondacks; and,

WHEREAS, DEC has, during Unit Management Plan adoption called for the closing of snowmobile trails for various reasons, while identifying replacement snowmobile trails; and,

WHEREAS, upon adoption of the Unit Management Plans the targeted snowmobile trails are closed, leaving the people of the State of New York waiting years in some cases for the replacement trails to be built;

RESOLVED, the Adirondack Park Local Government Review Board hereby calls upon DEC and APA to abandon the snowmobile mileage cap, allowing any snowmobile trails on State Lands acquired after 1972 to remain as long as those lands are not Wilderness or Primitive; and it is further,

RESOLVED, the Adirondack Park Local Government Review Board calls upon DEC to stop the practice of closing snowmobile trails identified in Unit Management Plans, for replacement, until the new trails are built and ready for use; and it is further,

RESOLVED, that copies of this Resolution be forwarded to Governor Andrew Cuomo, DEC Commissioner Basil Seggos, Senate Leader Majority Stewart-Cousins, Senate Minority Leader Flanagan, Assembly Speaker Heastie, All Adirondack State Legislators and Town Supervisors, All Adirondack Counties, the Association of Adirondack Towns & Villages.

STATE OF NEW YORK  
 EXECUTIVE CHAMBER  
 NELSON A. ROCKEFELLER, GOVERNOR

Ronald Maiorana, Press Secretary  
 518-GR 4-8418 (Albany); 212-JU 2-7030 (N.Y.C.)

(GOVERNOR-ADIRONDACK PLAN)

FOR RELEASE:  
 A.M., WEDNESDAY  
 JULY 26, 1972

Governor Rockefeller announced today his approval of the Adirondack Park State Land Master Plan, thereby making the plan state policy to guide the management of more than 2,275,000 acres of state-owned lands in the Adirondack Park.

"In developing management guidelines which will allow full public enjoyment of our unique Adirondack lands," the Governor said, "while assuring strong protection for the fragile areas of the Adirondack Forest Preserve, the Adirondack Park Agency has done a great service for the people of the state."

"The members of the Adirondack Park Agency are to be commended for this outstanding planning effort," the Governor said, in a letter to Agency Chairman Richard W. Lawrence, Jr., of Elizabethtown. "You may be sure of my support in meeting the challenge to carry out the spirit and letter of the public land plan," the Governor said.

The plan was prepared by the Adirondack Park Agency in consultation with the Department of Environmental Conservation as provided for in the 1971 legislation creating the Agency. Public Hearings were held prior to completion of the plan and its submission to the Governor last June first.

The plan classifies state-owned lands within the Adirondack Park according to their characteristics and capability to withstand use. The four broad categories and the acreage in each are:

Wilderness, 997,960 acres; Primitive, 75,670 acres;

Canoe Area, 18,000 acres and the balance, approximately

1,150,000 acres in the Wild Forest Category.

In addition, the plan designates Intensive Use and Special Management Areas, Wild and Scenic and Recreational Rivers and major Travel Corridors.

For each category, general guidelines for the management and use of the lands are presented. These guidelines provide the framework within which the Department of Environmental Conservation will prepare specific management plans for units of land classified to guide the development and management of state lands in the Adirondack Park.

Virtually all of the state-owned lands within the Adirondack Park are protected under Article XIV, Section 1 of the State Constitution, the so-called "forever wild" clause. The plan does not permit any new land uses within the Park, and curtails or limits some existing uses in keeping with the physical and biological characteristics and other determinants of the classification system.

The strictest classifications of state land are designed to achieve and perpetuate a natural plant and animal community where man's influence is not apparent. The plan continues the prohibition against any and all public use of motor vehicles or equipment. Furthermore, it reduces to an absolute minimum -- for periodic essential services -- the official use of vehicles and motorized equipment.

While there are relatively few non-conforming structures, as defined by the plan, in the Wilderness area, those in existence are to be removed by December 31, 1975. Interior Ranger facilities will also be phased out in favor of facilities at key points at the edge of the Wilderness areas to provide needed supervision of public use.

Contemplated changes directly affecting the public are minimal. There will be no decrease in the 820 miles of foot trails in the

(more)

( OVER )

Park, 520 miles of which are in the Wilderness areas. Nor will the more than two million annual campers enjoying the public campsites be affected, because most of these sites are in the Intensive Use category specifically designed to provide such public services.

There will be a reduction of about 20 miles of snowmobile trails now situated in Wilderness, but there will be no changes in the additional 930 miles in other land categories. Replacement of Wilderness Areas snowmobile trails being shut down is provided for in areas outside the Wilderness, Primitive categories of land.

Members of the Adirondack Park Agency, in addition to Mr. Lawrence, are James R. Bird, Raquette Lake; Whitman Daniels, Delmar; Henry L. Diamond, Albany; William J. Foley, Utica; Peter S. Paine, Jr., New York City; Mary F. Prime, Lake Placid; Joseph P. Tonelli, New York City; Richard A. Wiebe, Albany.

Copies of the Master Plan are available from the Adirondack Park Agency, Box 99, Ray Brook, New York 12977.

A copy of the Governor's letter follows:

\* \* \* \* \*  
STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY

July 20, 1972

Dear Dick:

I hereby approve the Adirondack Park State Land Master Plan, submitted on June 1, 1972 pursuant to Section 807, Article 27 of the Executive Law.

The members of the Adirondack Park Agency are to be commended for this outstanding planning effort. In developing management guidelines which allow full public enjoyment of our unique Adirondack lands while assuring strong protection for the fragile areas of the Adirondack Forest Preserve, the Agency has done a great service for the people of the state.

Under the Law, the Department of Environmental Conservation, in consultation with the Adirondack Park Agency, will complete individual management plans to conform with the general guidelines and criteria set forth in the master plan. Commissioner Diamond has been requested to make adequate provision in the Department's annual budget request for implementation of the management practices which have been recommended.

You may be sure of my support in meeting the challenge to carry out the spirit and letter of the public land plan.

Sincerely,

(Signed) NELSON A. ROCKEFELLER

Mr. Richard W. Lawrence, Jr.  
Chairman  
Adirondack Park Agency  
Box 99  
Ray Brook, New York 12977



Executive Director  
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### Resolution No. 2 of 2019

## RESOLUTION URGING ADIRONDACK INTERCOUNTY, AOT, NYCOM, NYSAC, AND NYS TO COME TOGETHER WITH A PLAN TO PROVIDE CELL COVERAGE FOR ALL ADIRONDACK RESIDENTS AND VISITORS

WHEREAS, cellular service and the ability to use individual wireless devices should no longer be considered a luxury; and,

WHEREAS, today's society, in all walks of life, is heavily dependent on cell phone and wireless networks. All areas of the State, including the Adirondacks need to have dependable access to this technology infrastructure; and,

WHEREAS, cell phones and the requisite cell coverage are in many cases the first link of our emergency response chain for fire, ambulance and law enforcement; and,

WHEREAS, Increasingly, where service is available, cell phones are being used to alert authorities of lost or injured outdoor enthusiasts; and,

WHEREAS, first responders are able to use these available networks to quickly find and respond directly to where they are needed, saving time and resources,

WHEREAS, this infrastructure also drives commerce and tourism, and is core to our quality of life; and,

WHEREAS, there are still large tracts of the Adirondacks which are still deprived of this utility; and,

WHEREAS, we as government officials have an obligation to provide for the public safety, the education, as well as the equitable treatment and opportunity for all of our citizens; now, therefore be it

RESOLVED, the Adirondack Park Local Government Review Board hereby calls upon all local governments to stand together, individually and through our associations to insist that the time is now to provide all Adirondack residents and visitors with this critical technology; and be it also,

RESOLVED, that copies of this Resolution be forwarded to Governor Andrew Cuomo, Senate Majority Leader Stewart-Cousins, Senate Minority Leader Flanagan, Assembly Speaker Heastie, All the Adirondack Legislators, Adirondack Intercounty, NYSAC, AOT, NYCOM, the Association of Adirondack Towns & Villages.

RESOLUTION NO. 19-148

**RESOLUTION CALLING ON GOVERNOR ANDREW M. CUOMO AND THE NEW YORK STATE LEGISLATURE TO ADDRESS THE LACK OF CELLULAR PHONE COVERAGE FOR ALL NEW YORK STATE RESIDENTS AND VISITORS**

**WHEREAS**, cellular service and the ability to use individual wireless devices is no longer a luxury, but rather a public necessity; and

**WHEREAS**, every area of the State, irrespective of financial means or the economics of the individual community, has a right to this critical piece of infrastructure; and

**WHEREAS**, cell phones and the requisite cell phone coverage are in many cases the first link of our emergency response chain for first responders including fire, EMS, and law enforcement; and

**WHEREAS**, this infrastructure also drives commerce and tourism, and is a critical component to the success of our education system and our students; and

**WHEREAS**, there are many large tracts of New York, including areas in Madison County that either do not have access or have extremely limited access to this public utility; and

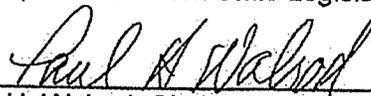
**WHEREAS**, government has an obligation to provide for the public safety, education, and equal treatment and opportunity for all of our citizens; and

**WHEREAS**, the Governor in his 2019 State of the State address called for the creation of an Upstate Cellular Coverage taskforce to identify solutions and develop policies addressing the lack of cellular coverage throughout New York State,

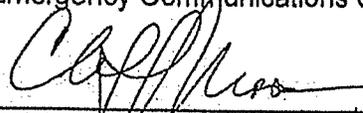
**NOW, THEREFORE, BE IT RESOLVED**, the Madison County Board of Supervisors hereby calls upon Governor Andrew M. Cuomo and the State Legislature to invest in cellular infrastructure, and push providers to invest in counties and communities throughout the State; and

**BE IT FURTHER RESOLVED**, the New York State Association of Counties shall forward copies of this resolution to Governor Andrew M. Cuomo, the New York State Legislature and all others deemed necessary.

Dated: March 12, 2019



\_\_\_\_\_  
Paul H. Walrod, Chairman  
Criminal Justice, Public Safety and  
Emergency Communications Committee



\_\_\_\_\_  
Cliff Moses, Chairman  
Planning, Economic Development,  
Environmental & Intergovernmental Affairs  
Committee

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CERTIFIED COPY OF RESOLUTION ADOPTED BY THE TIOGA COUNTY LEGISLATURE  
ADOPTED 4/9/2019

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REFERRED TO: ADMINISTRATIVE SERVICES COMMITTEE

RESOLUTION NO. 117-19 URGING NEW YORK STATE TO FUND ALL COSTS  
ASSOCIATED WITH NEW STATE-DIRECTED ELECTION  
REFORMS IMPLEMENTED AT THE COUNTY LEVEL

WHEREAS: State lawmakers have passed and the Governor has enacted a series of reforms to state election law and the voting process, including early voting, consolidating the federal and state primary dates, and voter registration transfers; and

WHEREAS: Counties, through local Boards of Elections, are responsible for managing election operations, and paying for all or most of the costs of these operations; and

WHEREAS: The State's new early voting law requires counties to open polling sites for early voting for 9 days prior to any primary or general election, starting during the 2019 general election; and

WHEREAS: Another state proposal would allow for same day voter registration, which would enable voting-age residents to register to vote and vote on Election Day; and

WHEREAS: These reforms will likely require counties to purchase and use electronic poll books, and make other investments in their election systems; therefore be it

RESOLVED: That the Tioga County Legislature calls upon Governor Andrew M. Cuomo, and the New York State Legislature to create a task force of state and local officials to determine the costs associated with implementing these voting reforms; and be it further

RESOLVED: That the state fund the costs associated with the reforms, and be it further

RESOLVED: That certified copies of this resolution be sent by the Clerk of this Legislature to Governor Andrew Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Fred Akshar and Assemblyman Christopher Friend.

## RESOLUTION NO. 41

TITLE: URGING NEW YORK STATE TO FUND ALL COSTS ASSOCIATED WITH NEW STATE-ENACTED VOTING REFORMS IMPLEMENTED AT THE COUNTY LEVEL

OFFERED BY: William Federice Who moved its adoption.

SECONDED BY: Richard Lape Chairman Rules & Legislation Committee

WHEREAS, state lawmakers have passed and the Governor has enacted a series of reforms to state election law and the voting process, including early voting, consolidating the federal and state primary dates, voter registration transfers, and same day voter registrations; and

WHEREAS, counties, through local Boards of Elections, are responsible for managing election operations, and paying for all or most of the costs of these operations; and

WHEREAS, the State's new early voting law requires counties to open polling sites for early voting for 9 days prior to any primary or general election, starting during the 2019 general election; and

WHEREAS, another state proposal would allow for same day voter registration, which would enable voting-age residents to register to vote and vote on Election Day, and

WHEREAS, these reforms will likely require counties to purchase and use electronic polling books, and make other investments in their election systems; now, therefore, be it

RESOLVED, the Schoharie County Board of Supervisors calls upon Govern Andrew M. Cuomo, and the New York State Legislature to create a task force of state and local officials to determine the costs associated with implementing these voting reforms; and be it

FURTHER RESOLVED, that the state fund the costs associated with the reforms, and be it further,

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of this Board to Governor Andrew Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator James Seward and Assemblyman Christopher Tague, the New York State Association of Counties and all others deemed necessary and proper.

Dated: March 14, 2019  
Filed: March 14, 2019

Sheryl Dugitea  
Clerk Board of Supervisors

APPROVED AS TO FORM AND LEGALITY.

[Signature]  
County Attorney

STATE OF NEW YORK  
COUNTY OF SCHOHARIE ss:

I, the undersigned, Clerk of the Board of Supervisors of the County of Schoharie, New York, DO HEREBY CERTIFY that I have compared the above copy of a resolution with the original resolution adopted by the Board of Supervisors of said County on the 15 day of March 2019, at a regular meeting of said Board and said copy is a true copy of said resolution and of the whole thereof.

I, FURTHER CERTIFY, that at the time said resolution was adopted said Board was comprised of 16 members, with total weighted vote of 2974 and votes were cast as follows: Yes 2974, No, 0, Absent 0.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Board this 15 day of March, 2019.

Sheryl Dugitea Clerk,  
Board of Supervisors of the County of Schoharie

ORLEANS COUNTY LEGISLATURE

ALBION, NEW YORK

## RESOLUTION NO. 103-319

URGING NEW YORK STATE TO FUND ALL COSTS ASSOCIATED WITH NEW STATE-ENACTED VOTING REFORMS IMPLEMENTED AT THE COUNTY LEVEL

WHEREAS, New York State has some of the lowest voter turnout rates in the nation; and

WHEREAS, state lawmakers have passed and the Governor has enacted a series of reforms to state election law and the voting process, including early voting, consolidating the federal and state primary dates, voter registration transfers, and same day voter registrations; and

WHEREAS, counties, through local Boards of Elections, are responsible for managing election operations, and paying for all or most of the costs of these operations; and

WHEREAS, the State's new early voting law requires counties to open polling sites for early voting for 10 days prior to any primary or general election, starting during the 2019 general election; and

WHEREAS, another state proposal would allow for same day voter registration, which would enable voting-age residents to register to vote and vote on Election Day, and

WHEREAS, these reforms will likely require counties to purchase and use electronic polling books, and make other investments in their election systems; now, therefore, be it

RESOLVED, the Orleans County Legislature calls upon Governor Andrew M. Cuomo, and the New York State Legislature to create a task force of state and local officials to determine the costs associated with implementing these voting reforms; and be it

FURTHER RESOLVED, that the state fund the costs associated with the new reforms; and be it

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of this Board to Governor Andrew Cuomo, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Robert Ort and Assemblyman Steve Hawley, Assemblyman Michael Norris, the New York State Association of Counties and all others deemed necessary and proper.

Moved, Miller; second, Allport.

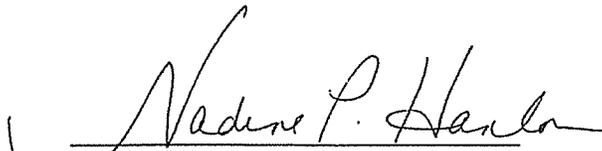
Adopted. 6 ayes; 0 nays; 1 absent, Eick.

COUNTY OF ORLEANS  
STATE OF NEW YORK

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Orleans County Legislature on the 27<sup>th</sup> day of February 2019.

Dated at Albion, New York  
February 28, 2019



  
Nadine P. Hanlon, Clerk  
Orleans County Legislature  
County of Orleans, New York

Resolution No. 110  
SCHUYLER COUNTY LEGISLATURE

Regular Meeting  
April 8, 2019

Intro. No. 25  
Approved by Committee PCB- Individually  
Approved by Co. Atty. SJG

Motion by Barnes  
Seconded by Rondinaro  
Vote: 7 Ayes to 0 Noes  
Name of Noes \_\_\_\_\_

RE: OPPOSE NEW YORK STATE SENATE BILL S.1947 AND NEW YORK STATE ASSEMBLY BILL A.1261 RELATED TO HOURS, WAGES AND SUPPLEMENTS IN CONTRACTS FOR PUBLIC WORK

WHEREAS, legislation has been introduced in both the New York State Senate and Assembly related to hours, wages and supplements in contracts for public work, and

WHEREAS, these Bills would expand the scope and definition of activities under the term Public Work to include most future construction projects that are financed with any amount of public funding, and

WHEREAS, these Bills would require contractors and material suppliers to pay prevailing wages and benefits to all workers and deliveries on projects receiving any state money, including those that receive tax breaks from industrial development agencies, and

WHEREAS, this legislation, if adopted or included as a budget mandate, will result in significant cost increases for all affected projects and a negative effect on economic development throughout the State.

NOW, THEREFORE, BE IT RESOLVED, Schuyler County Legislature opposes Senate Bill S.1947 and Assembly Bill A.1261 or the inclusion of any language as part of the 2019-2020 New York State budget, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions, and

BE IT FURTHER RESOLVED, that the Clerk of the Schuyler County Legislature shall forward copies of this Resolution to Governor Andrew M. Cuomo, the County's representatives in the New York State Legislature and all others deemed necessary and proper.

STATE OF NEW YORK        )  
  ) SS:  
COUNTY OF SCHUYLER    )

I, Jamee L. Mack, Deputy Clerk of the Schuyler County Legislature, do hereby certify that the foregoing is a true and exact copy of resolution duly adopted by the County Legislature on April 8, 2019.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said County Legislature at Watkins Glen, NY.

*Jamee L. Mack*  
\_\_\_\_\_  
Jamee L. Mack, Deputy Clerk

4-9-19  
\_\_\_\_\_  
Date



# BOARD OF SUPERVISORS

## SENECA COUNTY

Waterloo, New York 13165

**SUPERVISORS OPPOSE NEW YORK STATE SENATE BILL S.1947 AND NEW YORK STATE ASSEMBLY BILL A.1261 RELATED TO HOURS, WAGES AND SUPPLEMENTS IN CONTRACTS FOR PUBLIC WORK**

RESOLUTION NO. 68-19, moved by Sprvr. Trout, second by Sprvr. Davidson and adopted.

WHEREAS, legislation has been introduced in both the New York State Senate and Assembly related to hours, wages and supplements in contracts for public work; and

WHEREAS, these Bills would expand the scope and definition of activities under the term Public Work to include most future construction projects that are financed with any amount of public funding; and

WHEREAS, these Bills would require contractors and material suppliers to pay prevailing wages and benefits to all workers and deliveries on projects receiving any state money, including those that receive tax breaks from industrial development agencies; and

WHEREAS, this legislation, if adopted or included as a budget mandate, will result in significant cost increases for all affected projects and a negative effect on economic development throughout the State; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors opposes Senate Bill S.1947 and Assembly Bill A.1261 or the inclusion of any language as part of the 2019-2020 New York State budget; and be it further

RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and be it further

RESOLVED, that the Clerk of the Board of Supervisors shall forward copies of this resolution to Governor Andrew M. Cuomo, the NYS Legislature and all others deemed necessary and proper.

*I do hereby certify that I have compared the preceding with the original thereof, on file in the Office of the Clerk of the Board of Supervisors at Waterloo, New York, and that the same is a correct transcript therefrom and of the whole of said original; and that said original was duly adopted at a regular meeting of the Board of Supervisors of Seneca County held at Waterloo, New York on the 9 day of April 2019.*

STATE OF NEW YORK  
County of Seneca}

\_\_\_\_\_  
Margaret E. Li, Clerk, Board of Supervisors  
Seneca County, Waterloo, New York 13165

Given under my hand and official seal \_\_\_\_\_

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CERTIFIED COPY OF RESOLUTION ADOPTED BY THE TIOGA COUNTY LEGISLATURE  
ADOPTED 4/9/2019

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REFERRED TO: ED&P COMMITTEE

RESOLUTION NO 118-19 RESOLUTION TO OPPOSE NEW YORK STATE SENATE  
BILL S.1947 AND NEW YORK STATE ASSEMBLY BILL  
A.1261 RELATED TO HOURS, WAGES AND  
SUPPLEMENTS IN CONTRACTS FOR PUBLIC WORK

WHEREAS: Legislation has been introduced in both the New York State Senate and Assembly related to hours, wages and supplements in contracts for public work; and

WHEREAS: These Bills would expand the scope and definition of activities under the term Public Work to include most future construction projects that are financed with any amount of public funding; and

WHEREAS: These Bills would require contractors and material suppliers to pay prevailing wages and benefits to all workers and deliveries on projects receiving any state money, including those that receive tax breaks from industrial development agencies; and

WHEREAS: This legislation, if adopted or included as a budget mandate, will result in significant cost increases for all affected projects and a negative effect on economic development throughout the State; therefore be it

RESOLVED: That the Tioga County Legislature opposes Senate Bill S.1947 and Assembly Bill A.1261 or the inclusion of any language as part of the 2019-2020 New York State budget; and be it further

RESOLVED: That copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and be it further

RESOLVED: That the Clerk of the Legislature shall forward copies of this resolution to Governor Andrew M. Cuomo, the NYS Legislature and all others deemed necessary and proper.

CLEAN ENERGY COMMUNITIES - HIGH IMPACT ACTION  
ENERGIZE NY FINANCE



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save money with  
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## Make significant energy-related upgrades and pay back the costs with your property taxes.

Energize NY Finance, also known as Property Assessed Clean Energy (PACE) financing allows commercial or nonprofit property owners to pay back the cost of clean energy upgrades through a special charge on their property tax bill. The PACE Financing program enables eligible buildings to secure funds to tackle significant energy upgrades and renewable energy projects.

This financing structure is available through the Energy Improvement Corporation (EIC) for the installation of permanent improvements that reduce energy costs in existing buildings. EIC is a local development corporation and a New York State nonprofit established specifically to assist municipalities and property owners to achieve long-term energy savings and/or generate renewable power for use on site.

### **Earn credit toward the Clean Energy Communities designation**

NYSERDA's Clean Energy Communities Program recognizes and rewards local governments for their clean energy leadership. Complete four of the ten High Impact Actions to earn the Clean Energy Community designation as well as a grant of up to \$250,000 with no local cost share to support additional clean energy projects.

To earn credit for this action, municipalities must adopt legislation establishing an Energize NY Finance program and must become a member of the Energy Improvement Corporation.

### **Get started**

Municipalities have access to approximately 50 hours of free on-demand technical assistance from a Clean Energy Community Coordinator and a toolkit that includes step-by-step guidance and other tools and resources.

Visit [nyserda.ny.gov/cec](http://nyserda.ny.gov/cec) or email [cec@nyserda.ny.gov](mailto:cec@nyserda.ny.gov) for more information, including detailed program requirements.



**Clean Energy  
Communities**



Energize NY Open C-PACE channels private capital to commercial and non-profit building owners to make energy upgrades to their buildings, enabling them to improve their properties, lower operating expenses and positively impact their communities.

Property Assessed Clean Energy (PACE) financing is a public benefit authorized by state and local law, with repayment secured through a benefit assessment lien on the improved property.

The Energy Improvement Corporation (EIC), a non-profit, statewide local development corporation, administers Energize NY Open C-PACE on behalf of its member municipalities.

Energize NY Open C-PACE differs from traditional bank loans:

- Financing is available for up to 100% of the project cost, or can be combined with other financing
- Competitive private financing from EIC-approved capital providers
- Customizable loan terms up to the expected life of the improvement(s) (generally 20-30 years)
- Benefit assessment lien is subordinate to municipal taxes and senior to other liens (consent from mortgage holder is required)
- Automatically transfers to new owner upon sale of property
- Available for energy efficiency and renewable energy measures (Projects are qualified according to NYSERDA's C-PACE Guidelines)

Open C-PACE paves the way for higher levels of energy efficiency or renewable energy to be included as part of a building's redevelopment or rehabilitation – and might be the pivotal element needed to move the project forward.

Visit [www.EnergizeNY.org](http://www.EnergizeNY.org) or Call (914) 302-7300 x8105

### Enabling Open C-PACE in your community

- Municipalities must pass a local law and sign an EIC municipal agreement to offer Energize NY Open C-PACE. EIC provides template documents.
- Any New York State municipality with tax lien authority is eligible.
- Open C-PACE is available to all local municipalities within a member county except for cities that have tax lien authority, which must join separately.



### Benefits to member municipalities:

- No fees to join
- No responsibility for program administration
- No financial exposure for the municipality

Once Open C-PACE is enabled, the member municipality provides the public benefit of PACE and EIC administers the program.

- EIC records the lien on the land record.
- EIC bills the property owner directly and administers collection of the payment.
- The capital provider enforces the PACE lien only *after* paying any delinquent municipal taxes owed by the property owner to the municipality.

Questions? Visit [www.EnergizeNY.org](http://www.EnergizeNY.org) or call (914) 302-7300 x8105

LOCAL LAW NO. \_\_\_ – 20**A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM (OPEN C-PACE) IN THE \_\_\_\_\_**

Be it enacted by the [County/City/Town/Village] of \_\_\_\_\_ (the “Municipality”) as follows:

**Section 1.** This local law shall be known as the “Energize NY Open C-PACE Financing Program” and shall read as follows:

**ARTICLE I****§1. Legislative findings, intent and purpose, authority.**

- A. It is the policy of both the Municipality and the State of New York (the “State”) to achieve energy efficiency and renewable energy improvements, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The Municipality finds that it can fulfill this policy by providing property assessed clean energy financing to Qualified Property Owners (as defined below) for the installation of renewable energy systems and energy efficiency measures. This local law establishes a program that will allow the Energy Improvement Corporation (as defined below, “EIC”), a local development corporation, acting on behalf of the Municipality pursuant to the municipal agreement (the “Municipal Agreement”) to be entered into between the Municipality and EIC, to make funds available to Qualified Property Owners that will be repaid through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this local law and accomplishing an important public purpose. This local law provides a method of implementing the public policies expressed by, and exercising the authority provided by, Article 5-L of the General Municipal Law (as defined below, the “Enabling Act”).
- B. The Municipality is authorized to execute, deliver and perform the Municipal Agreement and otherwise to implement this Energize NY Open C-PACE Financing Program pursuant to the Constitution and laws of New York, including particularly Article IX of the Constitution, Section 10 of the Municipal Home Rule Law, the Enabling Act and this local law.
- C. This local law, which is adopted pursuant to Section 10 of the Municipal Home Rule Law and the Enabling Act shall be known and may be cited as the “Energize NY Open C-PACE Local Law”.

**§2. Definitions**

- A. Capitalized terms used but not defined herein have the meanings assigned in the Enabling Act.

- B. For purposes of this local law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

**Annual Installment Amount** – shall have the meaning assigned in Section 8, paragraph B.

**Annual Installment Lien** – shall have the meaning assigned in Section 8 paragraph B.

**Authority** – the New York State Energy Research and Development Authority.

**Benefit Assessment Lien** – shall have the meaning assigned in Section 3, paragraph A.

**Benefited Property** – Qualified Property for which the Qualified Property Owner has entered into a Finance Agreement for a Qualified Project.

**Benefited Property Owner** – the owner of record of a Benefited Property.

**EIC** – the Energy Improvement Corporation, a local development corporation, duly organized under section 1411 of the Not-For-Profit Corporation Law of the State, authorized hereby on behalf of the Municipality to implement the Program by providing funds to Qualified Property Owners and providing for repayment of such funds from money collected by or on behalf of the Municipality as a charge to be levied on the real property.

**Eligible Costs** – costs incurred by the Benefited Property Owner in connection with a Qualified Project and the related Finance Agreement, including application fees, EIC's Program administration fee, closing costs and fees, title and appraisal fees, professionals' fees, permits, fees for design and drawings and any other related fees, expenses and costs, in each case as approved by EIC and the Financing Party under the Finance Agreement

**Enabling Act** – Article 5-L of the General Municipal Law of the State, or a successor law, as in effect from time to time.

**Finance Agreement** – the finance agreement described in Section 6A of this local law.

**Financing Charges** – all charges, fees and expenses related to the loan under the Finance Agreement including accrued interest, capitalized interest, prepayment premiums, and penalties as a result of a default or late payment and costs and reasonable attorneys' fees incurred by the Financing Party as a result of a foreclosure or other legal proceeding brought against the Benefited Property to enforce any delinquent Annual Installment Liens.

**Financing Parties** – Third party capital providers approved by EIC to provide financing to Qualified Property Owners or other financial support to the Program which have entered into separate agreements with EIC to administer the Program in the Municipality.

**Municipality** – the \_\_\_\_\_ of \_\_\_\_\_, a municipality of the State constituting a tax district as defined in Section 1102 of the RPTL of the State.

**Municipal Lien** – a lien on Qualified Property which secures the obligation to pay real property taxes, municipal charges, or governmentally imposed assessments in respect of services or benefits to a Qualified Property.

**Non-Municipal Lien** – a lien on Qualified Property which secures any obligation other than the obligation to pay real property taxes, municipal charges, or governmentally-imposed assessments in respect of services or benefits to a Qualified Property Owner or Qualified Property.

**Program** – the Energize NY Open C-PACE Financing Program authorized hereby.

**Qualified Project** – the acquisition, construction, reconstruction or equipping of Energy Efficiency Improvements or Renewable Energy Systems or other projects authorized under the Enabling Act on a Qualified Property, together with a related Energy Audit, Renewable Energy System Feasibility Study and/or other requirements under or pursuant to the Enabling Act, with funds provided in whole or in part by Financing Parties under the Program to achieve the purposes of the Enabling Act.

**Qualified Property** – Any real property other than a residential building containing less than three dwelling units, which is within the boundaries of the Municipality that has been determined to be eligible to participate in the Program under the procedures for eligibility set forth under this local law and the Enabling Act and has become the site of a Qualified Project.

**Qualified Property Owner** – the owner of record of Qualified Property which has been determined by EIC to meet the requirements for participation in the Program as an owner, and any transferee owner of such Qualified Property.

**RPTL** – the Real Property Tax Law of the State, as amended from time to time.

**Secured Amount** – as of any date, the aggregate amount of principal loaned to the Qualified Property Owner for a Qualified Project, together with Eligible Costs and Financing Charges, as provided herein or in the Finance Agreement, as reduced pursuant to Section 8, paragraph C.

**State** – the State of New York.

### **§3. Establishment of an Energize NY Open C-PACE Financing Program**

- A. An Energize NY Open C-PACE Financing Program is hereby established by the Municipality, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may arrange for the provision of funds by Financing Parties to Qualified Property Owners in accordance with the Enabling Act and the procedures set forth under this local law, to finance the acquisition, construction, reconstruction, and installation of Qualified Projects and Eligible Costs and Financing Charges approved by EIC and by the Financing Party under the Finance Agreement. EIC, on behalf of the Municipality, and with the consent of the Benefited Property Owner, will record a Benefit Assessment Lien on the Benefited Property in the Secured Amount (the “Benefit Assessment Lien”) on the land records for the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality.

- B. Before a Qualified Property Owner and a Financing Party enter into a Finance Agreement which results in a loan to finance a Qualified Project, repayment of which is secured by a Benefit Assessment Lien, a written consent from each existing mortgage holder of the Qualified Property shall be obtained, permitting the Benefit Assessment Lien and each Annual Installment Lien to take priority over all existing mortgages.

**§4. Procedures for eligibility**

- A. Any property owner in the Municipality may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the Municipality's offices.
- B. Every application submitted by a property owner shall be reviewed by EIC, acting on behalf of the Municipality, which shall make a positive or negative determination on such application based upon the criteria enumerated in the Enabling Act and § 5 of this local law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC, acting on behalf of the Municipality, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Program in accordance with § 6 of this local law.

**§5. Application criteria**

Upon the submission of an application, EIC, acting on behalf of the Municipality, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- B. The amount financed under the Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- C. Sufficient funds are available from Financing Parties to provide financing to the property owner;
- D. The property owner is current in payments on any existing mortgage on the Qualified Property;
- E. The property owner is current in payments on any real property taxes on the Qualified Property; and
- F. Such additional criteria, not inconsistent with the criteria set forth above, as the State, the Municipality, or EIC acting on its behalf, or other Financing Parties may set from time to time.

**§6. Energize NY Finance Agreement**

- A. A Qualified Property Owner may participate in the Program through the execution of a finance agreement made by and between the Qualified Property Owner and a Financing Party, to which EIC, on behalf of the Municipality, shall be a third-party beneficiary (the "Finance Agreement"). Upon execution and delivery of the Finance Agreement, the property that is the subject of the Finance Agreement shall be deemed a "Benefited Property").
- B. Upon execution and delivery of the Finance Agreement, the Benefited Property Owner shall be eligible to receive funds from the Financing Party for the acquisition, construction, and installation of a Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, provided the requirements of the Enabling Act, the Municipal Agreement and this local law have been met.
- C. The Finance Agreement shall include the terms and conditions of repayment of the Secured Amount and the Annual Installment Amounts.
- D. EIC may charge fees to offset the costs of administering the Program and such fees, if not paid by the Financing Party, shall be added to the Secured Amount.

**§7. Terms and conditions of repayment**

The Finance Agreement shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds loaned to the Benefited Property Owner for the Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, shall be specially assessed against the Benefited Property and will be evidenced by a Benefit Assessment Lien recorded against the Benefited Property on the land records on which liens are recorded for properties within the Municipality. The special benefit assessment shall constitute a "charge" within the meaning of the Enabling Act and shall be collected in annual installments in the amounts certified by the Financing Party in a schedule provided at closing and made part of the Benefit Assessment Lien. Said amount shall be annually levied, billed and collected by EIC, on behalf of the Municipality, and shall be paid to the Financing Party as provided in the Finance Agreement.
- B. The term of such repayment shall be determined at the time the Finance Agreement is executed by the Benefited Property Owner and the Financing Party, not to exceed the weighted average of the useful life of the systems and improvements as determined by EIC, acting on behalf of the Municipality.
- C. The rate of interest for the Secured Amount shall be fixed by the Financing Party in conjunction with EIC, acting on behalf of the Municipality, as provided in the Finance Agreement.

**§8. Levy of Annual Installment Amount and Creation of Annual Installment Lien**

- A. Upon the making of the loan pursuant to the Finance Agreement, the Secured Amount shall become a special Benefit Assessment Lien on the Benefited Property in favor of the Municipality. The amount of the Benefit Assessment Lien shall be the Secured Amount. Evidence of the Benefit Assessment Lien shall be recorded by EIC, on behalf of the Municipality, in the land records for properties in the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. The Benefit Assessment Lien shall not be foreclosed upon by or otherwise enforced by the Municipality.
- B. The Finance Agreement shall provide for the repayment of the Secured Amount in installments made at least annually, as provided in a schedule attached to the Benefit Assessment Lien (the "Annual Installment Amount"). The Annual Installment Amount shall be levied by EIC, on behalf of the Municipality, on the Benefited Property in the same manner as levies for municipal charges, shall become a lien on the Benefited Property as of the first day of January of the fiscal year for which levied (the "Annual Installment Lien") and shall remain a lien until paid. The creation or any recording of the Annual Installment Lien shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. Payment to the Financing Party shall be considered payment for this purpose. Such payment shall partly or wholly discharge the Annual Installment Lien. Delinquent Annual Installment Amounts may accrue Financing Charges as may be provided in the Finance Agreement. Any additional Financing Charges imposed by the Financing Party pursuant to the Finance Agreement shall increase the Annual Installment Amount and the Annual Installment Lien for the year in which such overdue payments were first due.
- C. The Benefit Assessment Lien shall be reduced annually by the amount of each Annual Installment Lien when each Annual Installment Lien becomes a lien. Each Annual Installment Lien shall be subordinate to all Municipal Liens, whether created by Section 902 of the RPTL or by any other State or local law. No portion of a Secured Amount shall be recovered by the Municipality, EIC, or an assignee upon foreclosure, sale or other disposition of the Benefited Property unless and until all Municipal Liens are fully discharged. Each Annual Installment Lien, however, shall have priority over all Non-Municipal Liens, irrespective of when created, except as otherwise required by law.
- D. Neither the Benefit Assessment Lien nor any Annual Installment Lien shall be extinguished or accelerated in the event of a default or bankruptcy of the Benefited Property Owner. Each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall be collected by EIC, on behalf of the Municipality, at the same time and in the same manner as real property taxes or municipal charges. Each Annual Installment Lien shall remain a lien until paid. Amounts collected in

respect of an Annual Installment Lien shall be remitted to EIC, on behalf of the Municipality, or the Financing Party, as may be provided in the Finance Agreement.

- E. EIC shall act as the Municipality's agent in collection of the Annual Installment Amounts. If any Benefited Property Owner fails to pay an Annual Installment Amount, the Financing Party may redeem the Benefited Property by paying the amount of all unpaid Municipal Liens thereon, and thereafter shall have the right to collect any amounts in respect of an Annual Installment Lien by foreclosure or any other remedy available at law. Any foreclosure shall not affect any subsequent Annual Installment Liens.
- F. EIC, on behalf of the Municipality, may sell or assign for consideration any and all Benefit Assessment Liens and Annual Installment Liens to Financing Parties that provide financing to Qualified Properties pursuant to Finance Agreements. The Financing Parties may sell or assign for consideration any and all Benefit Assessment Liens and Annual Installment Liens received from EIC, on behalf of the Municipality, subject to certain conditions provided in the administration agreement between EIC and the Financing Party. The assignee or assignees of such Benefit Assessment Liens and Annual Installment Liens shall have and possess the same powers and rights at law or in equity as the Municipality would have had if the Benefit Assessment Lien and the Annual Installment Liens had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection.

**§9. Verification and report**

EIC, on behalf of the Municipality, shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Program in such form and manner as the Authority may establish.

**§10. Separability.** If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

**Section 2.** This local law shall take effect upon filing with the Secretary of State.