

2019 LOCAL LAWS OF ORANGE COUNTY

LOCAL LAW NO. 1 OF 2019

A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM IN THE COUNTY OF ORANGE¹

Be it enacted by the County Legislature of the County of Orange, State of New York as follows:

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the County of Orange and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The County Legislature of the County of Orange finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the County of Orange pursuant to the municipal agreement to be entered into between the County of Orange and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The County of Orange is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the County of Orange.”

§2. Definitions

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

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the County of Orange to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the County of Orange tax collecting officer

¹ Authorized by Local Law 9 of 2013

as a charge to be levied on the real property and collected in the same manner and same form as the County of Orange's County taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the County of Orange that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the County of Orange whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy

Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in the County of Orange 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 County of Orange offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the County of Orange, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this 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 County of Orange, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

§5. Application criteria

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

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing 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;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as the County of Orange, or EIC acting on its behalf, may set from time to time.

§6. Opt-in, Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the County of Orange (the "Energize NY Finance Agreement").
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of the County of Orange, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the County of Orange, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their County tax bill and shall be levied and collected at the same time and in the same manner as County property taxes, provided that such charge shall be separately listed on the tax bill. The County of Orange shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to the County of Orange.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the County of Orange.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the County of Orange at the time the Energize NY Finance Agreement is executed by the property owner and EIC.

D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

A. EIC shall be responsible for verifying and reporting to the County of Orange Planning Department Commissioner on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.

B. The County of Orange Planning Department Commissioner shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

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

DATED: FEBRUARY 7, 2019

ENACTED BY THE FOLLOWING VOTE:
Ayes 21; Noes 0

Filed with the Secretary of State: 3/22/19
Effective: 3/22/19

LOCAL LAW NO. 2 OF 2019

A LOCAL LAW AMENDING LOCAL LAW NO. 10 OF 2008, RELATING TO THE SALE OF CERTAIN COUNTY REAL PROPERTY KNOWN AS THE CENTRAL ORANGE DEVELOPMENT AREA (FORMERLY KNOWN AS CAMP LAGUARDIA).

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

SECTION ONE. Purpose.

The purposes of this Local Law are: 1) continue the ability of the County of Orange to effectuate the sale of certain real property owned by the County of Orange, known and referred to as the Central Orange Development Area, formerly known as Camp LaGuardia, located in the Towns of Chester, Blooming Grove and the Village of Chester, as described in Local Law 10 of 2008; 2) to enable the subdivision of such parcel(s); 3) to continue to supersede that provision of the New York State County Law Section 215(6) that provides that property not needed for County purposes be sold only to the highest responsible bidder after advertisement; and 4) to enable the sale of the parcel, or portion(s) thereof, as subdivided by the Director of Real Property Tax Services, to be sold pursuant to the provisions of Section Two of this Local Law. The effect of this enactment will be to allow the sale of the property and for the property, and/or portions thereof, to be sold at fair and adequate consideration to the party or parties making the offer deemed in the County's best interests by the Legislature.

SECTION TWO. Sale to Highest Bidder After Advertisement Not Required.

The Central Orange Development Area, and/or any portion or portions thereof, shall be sold for fair and adequate consideration to the party or parties presenting the offer(s) deemed in the best interests of the County by Resolution of the County Legislature. Sale to the party or parties making the highest bid for the Central Orange Development Area, or portion(s) thereof is not required.

SECTION THREE. Supercedure of New York State County Law Section 215(6).

This Local Law shall supersede New York State County Law Section 215(6) to the extent that it is inconsistent therewith.

SECTION FOUR. Effective Date.

This Local Law shall take effect as provided by the New York State Municipal Home Rule Law and upon the completion of the requisite filings and procedures.

DATED: AUGUST 1, 2019

ENACTED BY THE FOLLOWING VOTE:

Ayes 18; Noes 0; Absent 3
(Absent: O'Donnell, Sierra, Tautel)

Filed with the Secretary of State: 9/16/19

Effective: 9/16/19

LOCAL LAW NO. 3 OF 2019

A LOCAL LAW ENTITLED "ORANGE COUNTY APPRENTICESHIP TRAINING REQUIREMENTS."

BE IT ENACTED, by the County Legislature of the County of Orange, a local law as follows:

SECTION 1. Legislative Intent and purpose.

The County of Orange hereby establishes a policy to promote apprenticeship training as authorized by § 816-b of the New York Labor Law.

SECTION 2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPRENTICESHIP AGREEMENT – Shall mean (1) An individual written agreement between an employer and an apprentice, or (2) a written agreement between an employer or an association of employers, and an organization of employees describing conditions of employment for an apprentice or (3) a written statement describing conditions of employment for apprentices in a plant or plants where there is no bona fide employee organization.²

² For reference only – this definition is taken directly from Section 816 of the Labor Law.

CONSTRUCTION CONTRACT – Shall mean a “Construction Contract” in excess of \$350,000, in the aggregate as the term “construction contract” is defined in § 816-b of the Labor Law,³ where the County Executive is the signatory on behalf of the County of Orange. It shall not, however, mean a “construction contract” as defined in § 816-b of the Labor Law where the County of Orange is one governmental entity which is bound to a contract but another governmental entity is also a signatory to the contract or to an intermunicipal agreement relating to the contract in the case of a jointly developed building, facility, or physical structure unless such other entity agrees to be bound by the provisions of this law or has an identical law or one reasonably similar, in the reasonable judgment of the County Attorney, to require the provisions of this law to be implemented. Further, a contract or sub-contract for paving, land clearing and security services are not Construction Contracts and shall not be included in the aggregate value of the contract.

CONTRACTOR or SUBCONTRACTOR – A contractor or subcontractor which directly employs labor under a construction contract for which an apprenticeship program has been approved by the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law.

SECTION 3. Requirements and Exceptions.

- A. The County of Orange hereby requires any contractor, prior to entering into a Construction Contract with the County of Orange or any subcontractor entering into a contract with a contractor who has a Construction Contract with the County of Orange, to have apprenticeship agreements appropriate for the type and scope of work to be performed, which have been registered with, and approved by, the New York State Commissioner of Labor in accordance with Article 23 of New York Labor Law.⁴ Such apprenticeship program must have a graduation rate of at least thirty percent as determined by the New York State Department of Labor.
- B. This local law shall not apply:
 - i. where a specific trade has not been included among the list of trades maintained by the New York State Commissioner of Labor available for such apprenticeship agreements at the time of opening of bids for the construction contract project.
 - ii. to any Construction Contracts utilizing federal, state, county or other funding assistance to the extent such funding assistance precludes application of this local law.

SECTION 4. Enforcement.

³ For reference only, §816-b of the New York Labor Law defines “construction contract” as meaning any contract to which a governmental entity may direct or indirect party which involves the design, construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for any building, facility or physical structure of any kind. (current as of July 25, 2018 and for reference only).

⁴ For Reference Only: While generally municipal bidding must be done in accordance with Section 103 of the General Municipal Law, Article 23 of the Labor Law (specifically Section 816-b(2)), provides that a construction contract entered into pursuant to Article 23 can be made notwithstanding the provisions of Section 103 of the General Municipal Law, Section 135 of the State Finance Law, or Section 151 of the Public Housing Law.

The Commissioner of the Department of General Services is hereby authorized, empowered and directed to promulgate and, from time to time amend, such rules and regulations that he deems necessary for the implementation and enforcement of any provisions of this local law. However, this local law shall not preclude the Commissioner of General Services along with the Commissioner of Public Works from negotiating such terms and conditions with the construction contract contractor to assure that there is a sufficient labor workforce on the job so as not to delay timely completion of the construction contract project.

SECTION 5. Severability.

In any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraphs, subdivisions, section or part of this chapter or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgement or order shall be rendered.

SECTION 6. Applicability.

This Local Law shall apply to construction contracts advertised for bids on or after the effective date.

SECTION 7. Effective date.

This Local Law shall become effective 90 days after its filing in the office of the Secretary of the State pursuant to Municipal Home Rule Law, provided, however, that any regulations of the Commissioner of General Services may be promulgated prior to the effective date of this Local Law.

DATED: SEPTEMBER 5, 2019

ENACTED BY THE FOLLOWING VOTE:

Ayes 20; Noes 1
(Noes: Cheney)

Filed with the Secretary of State: 10/11/19

Effective: 10/11/19

LOCAL LAW NO. 4 OF 2019

A LOCAL LAW AMENDING SECTION 2 OF LOCAL LAW NUMBER 10 OF 2018 RELATING TO THE SALE OF CERTAIN COUNTY REAL PROPERTY KNOWN RESIDENCES ON RESERVOIR PROPERTIES AND AUTHORIZING THE SALE TO OTHER THAN THE HIGHEST RESPONSIBLE BIDDER.

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

SECTION ONE. Section Two of Local Law 10 of 2018 is amended to read as follows:

Process of Sale.

The Director of Real Property Tax Services is authorized and directed to list the properties for sale utilizing a multiple listing service so that real estate brokers may become aware of the listings in order to best market the properties. Nothing in this local law shall preclude the Director or Real Property Tax Services from engaging in direct negotiations with any potential purchaser nor require the use of a purchaser's broker in the sale of any of the properties which are part of this local law. The County Executive, or with his consent and on his behalf, the Director of Real Property Tax Services, may enter into a contract to pay a purchasing broker's commission not to exceed three percent of the sale price. The final purchase price of any property shall not be less than ninety percent of the anticipated "selling price" as listed on the attached Schedule "A", **or such other amount as may be approved by at least two of the following three persons (ex officio): Director of Real Property Tax Services, Chairperson of the County Legislature, and Chairperson of the County Legislature's Ways and Means Committee.** The final sale price of any such property shall require the approval of the Director of Real Property Tax Services and the Commissioner of Finance. Any contract of sale shall be subject to the approval of the County Attorney.

SECTION TWO: Supercedure of New York State County Law Section 215(6).

This Local Law shall supersede New York State County Law Section 215(6) to the extent that it is inconsistent therewith.

SECTION THREE: Effective Date.

This Local Law shall take effect as provided by the New York State Municipal Home Rule Law and upon the completion of the requisite filing and procedures.

DATED: NOVEMBER 7, 2019

ENACTED BY THE FOLLOWING VOTE:

Ayes 20; Noes 0; Absent 1
(Absent: Sutherland)

Filed with Secretary of State: 12/20/19

Effective: 12/20/19

SCHEDULE "A"

COUNTY-OWNED RESIDENTIAL RESERVOIR RENTAL PROPERTIES

LOCATION	ANNUAL RENT	VACANY FACTOR -10%	NET ANNUAL RENT	ANNUAL TAXES	ANNUAL REPAIR ESTIMATE \$65,000 BUDGETED/16 HOUSES	NET ANNUAL REVENUE AVG REPAIR EXPENSES	FULL MARKET VALUE TOWN ASSESSOR	PROBABLY SELLING PRICE
524 Pine Hill Rd, Chester	\$ 12,000	\$ 1,200	\$ 10,800	\$ 5,994	\$ 4,063	\$ 743	\$ 184,700	\$ 150,000
520 Pine Hill Rd, Chester	\$ 14,700	\$ 1,470	\$ 13,230	\$ 7,914	\$ 4,063	\$ 1,253	\$ 245,800	\$ 200,000
418 Pine Hill Rd, Chester	\$ 18,600	\$ 1,860	\$ 16,740	\$ 8,949	\$ 4,063	\$ 3,728	\$ 278,600	\$ 325,000
464 Pine Hill Rd, Chester	\$ 13,500	\$ 1,350	\$ 12,150	\$ 5,700	\$ 4,063	\$ 2,387	\$ 185,000	\$ 185,000
783 County Rte 17, Crawford	\$ 12,600	\$ 1,260	\$ 11,340	\$ 3,479	\$ 4,063	\$ 3,798	\$ 102,600	\$ 150,000
680 County Rte 17, Crawford	\$ 15,300	\$ 1,530	\$ 13,770	\$ 5,915	\$ 4,063	\$ 3,792	\$ 174,400	\$ 225,000
569 County Rte 17, Crawford	\$ 11,700	\$ 1,170	\$ 10,530	\$ 4,140	\$ 4,063	\$ 2,327	\$ 122,100	\$ 140,000
702 Ward Ave, Crawford	\$ 12,000	\$ 1,200	\$ 10,800	\$ 5,300	\$ 4,063	\$ 1,437	\$ 180,000	\$ 190,000
185 Murray Rd, Mount Hope	\$ 12,000	\$ 1,200	\$ 10,800	\$ 6,291	\$ 4,063	\$ 446	\$ 203,400	\$ 180,000
303 Murray Rd, Mount Hope	\$ 13,800	\$ 1,380	\$ 12,420	\$ 5,934	\$ 4,063	\$ 2,423	\$ 191,900	\$ 175,000
2083 Mount Hope Rd, Mount Hope	\$ 14,400	\$ 1,440	\$ 12,960	\$ 5,624	\$ 4,063	\$ 3,273	\$ 181,900	\$ 200,000
286 Murray Rd, Mount Hope	\$ 15,300	\$ 1,530	\$ 13,770	\$ 5,993	\$ 4,063	\$ 3,714	\$ 193,700	\$ 275,000
290 Murray Rd, Mount Hope	\$ 15,600	\$ 1,560	\$ 14,040	\$ 6,056	\$ 4,063	\$ 3,921	\$ 195,800	\$ 275,000
314 Murray Rd, Mount Hope	\$ 14,400	\$ 1,440	\$ 12,960	\$ 5,537	\$ 4,063	\$ 3,360	\$ 179,000	\$ 225,000
250 Murray Rd, Mount Hope	\$ 15,000	\$ 1,500	\$ 13,500	\$ 7,120	\$ 4,063	\$ 2,317	\$ 230,200	\$ 300,000
175 Burnt Corners Rd, Greenville	\$ 13,500	\$ 1,350	\$ 12,150	\$ 4,800	\$ 4,063	\$ 3,287	\$ 175,000	\$ 175,000
Totals	\$ 224,400	\$ 22,440	\$ 201,960	\$ 94,746	\$ 65,008	\$ 42,206	\$ 3,024,100	\$ 3,370,000

LOCAL LAW NO. 5 OF 2019

A LOCAL LAW IN RELATION TO ESTABLISHING A DEMONSTRATION PROGRAM IMPOSING OWNER LIABILITY FOR FAILURE OF AN OPERATOR TO STOP FOR A SCHOOL BUS DISPLAYING A RED VISUAL SIGNAL AND STOP-ARM.

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

SECTION 1. Definitions.

For purposes of this local law, the following terms shall have the following meanings:

A. "County" shall mean the County of Orange.

B. "Manual on uniform traffic control devices" or "MUTCD" shall mean the manual and specifications for a uniform system of traffic control devices maintained by the Commissioner of the Department of Transportation pursuant to section 1680 of the New York Vehicle and Traffic Law.

C. "Owner" shall have the meaning provided in Section 239 of the New York Vehicle and Traffic Law.

D. "School bus photo violation monitoring system" shall mean a device that is capable of operating independently of an enforcement officer which is installed to work in conjunction with a school bus stop-arm and which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of a vehicle at the time it is used or operated in violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law.

SECTION 2. Program Established.

A. There is hereby established, pursuant to section 1174-a of the New York State Vehicle and Traffic Law, a demonstration program imposing monetary liability on owners of vehicles for failure of the operators thereof to comply with section 1174 of the New York State Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20 and 21-c of section 375 of the New York State Vehicle and Traffic Law in Orange County.

B. Under such demonstration program the County is hereby authorized to install and operate school bus photo violation monitoring systems which may be stationary or mobile, and which may be installed, pursuant to an agreement with a school district within the County on school buses owned and operated by such school district. Provided, however, that:

(i). No stationary school bus photo violation monitoring system shall be installed or operated by the County, except on roadways under the jurisdiction of the County; and

(ii). No mobile school bus photo violation monitoring system shall be installed or operated on any such school buses unless the County and such district enter into an agreement for such installation and operation.

C. To carry out the demonstration program, the County, acting by and through the County Executive, is authorized to enter into agreement with a school district for the installation, maintenance and use of school bus photo violation monitoring systems, for the proper handling and custody of photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the County, subject to the provisions of this section and section 1174-a of the New York Vehicle and Traffic Law and approval of the County Legislature⁵.

D. Nothing in this local law shall be construed to prevent the County or school district at any time from withdrawing from or terminating an agreement for the installation, maintenance and use of school bus photo violation monitoring systems, provided, however, that the County or the school district shall provide any minimally required notice to the other for such withdrawal, if any prior to such withdrawal.

E. Cost of Program and Reports Relating Thereto.

(i). The County and any participating school district(s) shall each bear such costs and issue such reports associated with the demonstration program provided for under this local law as are required by State Law⁶.

(ii). Any participating school district, acting by and through the Superintendent of Schools of such district, or his or her designee shall provide any report required of the district, pursuant to Section 1174-a of the Vehicle and Traffic Law, to the State or any official thereof.

(iii). To the extent that the County shall be required to issue any report to the State or any official thereof as a result of the adoption of this local law and/or Section 1174-a of the Vehicle and Traffic Law, the Commissioner of the Orange County Department of Consumer Affairs and Weights and Measures shall cause the same to be prepared pursuant to this local or applicable State law.

F. Pursuant to Section 1174-a of the Vehicle and Traffic Law, any school district participating in the demonstration program shall be prohibited from accessing any photographs, microphotographs, videotapes, other recorded images and data from school bus photo violation monitoring systems but shall provide, pursuant to the agreement with the County, as provided in this local law, for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems, and for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the County for the purpose of determining whether a motor vehicle was operated in violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.

G. The agreement between the County and the school district shall provide that photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (a) ninety days after the date of the alleged

⁵ For informational purposes only, Section 1174-a(1-a) of the Vehicle and Traffic Law requires the “governing body” approve the contract with the participating schools. Accordingly, a model contract will be submitted to the County Legislature for approval after negotiating the same with BOCES or local school districts.

⁶ For informational purposes only, Section 1174-a of the Vehicle and Traffic Law requires the County (as the sponsor of the local law) to bear the costs of the program and to pay to the school district the school’s certified costs, if any of implementing the demonstration program.

imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this local law or (b) upon final disposition of a notice of liability issued pursuant to this local law.

H. The County shall, through contract, undertake and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by a school bus photo monitoring device. Such measures shall include:

(i). Utilization of necessary technologies to ensure, to the extent practicable, that photographs produced by such school photo violation monitoring systems shall not include images that identify the driver, the passengers, the contents of the vehicle, pedestrians and cyclists provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that the County has made a reasonable effort to comply with the provisions of this paragraph;

(ii). A prohibition of the use or dissemination of vehicles' license plate information and other information and images captured by school bus photo violation monitoring systems except: (a) as required to establish liability under this section or collect payment of penalties; (b) as required by court order; or (c) as otherwise required by law;

(iii). Oversight procedures to ensure compliance with the privacy protection measures required herein.

The County, acting by and through the Commissioner of the Department of Public Works, shall also undertake the installation of signage in conformance with standards established in the Manual on Uniform Traffic Control Devices. Such signage shall be installed at each roadway entrance of the jurisdictional boundaries of the County giving notice that school bus photo violation monitoring systems are used to enforce restrictions on vehicles violating section 1174 of the New York Vehicle and Traffic law. For the purposes of this paragraph, the term "roadway" shall not include state expressway routes or state interstate routes but shall include controlled-access highway exit ramps that enter the boundaries of the County.

SECTION 3. Penalties.

An owner liable for a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law pursuant to this local law shall be liable for monetary penalties in accordance with the following schedule of fines and penalties.

A. Two hundred fifty dollars for a first violation;

B. Two hundred seventy-five dollars for a second violation committed within eighteen months of the first violation;

C. Three hundred dollars for a third or subsequent violation all of which were committed within eighteen months from the first violation; and

D. An additional penalty of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

SECTION 4. Notice of Liability.

A. A notice of liability shall be sent as provided by State Law by first class mail to each person alleged to be liable as an owner for a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. To the extent that State Law does not require a Court of competent jurisdiction or traffic violations bureau to cause such mailing to be made, the County shall undertake or cause to be undertaken such mailing.

B. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

C. (i) A notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. (ii) The notice of liability may contain such other information as the entity causing such notice of liability to be mailed deems appropriate to communicate the law, the adjudicatory process if the addressee of the notice wishes to contest the notice of liability.

SECTION 5. Owner Liability.

A. The owner of a vehicle shall be liable for a penalty imposed pursuant to this local law if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic law and such violation is evidenced by information obtained from a school bus photo violation monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this local law where the operator of such vehicle has been convicted of the underlying violation of subdivision (a) of Section 1174 of the New York State Vehicle and Traffic Law. For purposes of (i) this Section; and (ii) this local law, there shall be a presumption that such vehicle was used and operated with the consent of the owner at the time it was used and operated in violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law.

B. If an owner receives a notice of liability pursuant to this local law for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law pursuant to this local law that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent or delivered to a court of competent jurisdiction or parking violations bureau having jurisdiction where any contested notice of liability would otherwise be determined.

C. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to this local law shall not be liable for the violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law, provided that he or she complies with the provisions of section 1174-a of the New York Vehicle and Traffic Law and otherwise sends to the Court of competent jurisdiction or other adjudicatory bureau or agency of competent jurisdiction, a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the agency or entity which caused such notice of liability to be issued, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this local law. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle, for purposes of this section, shall be deemed to be the owner of such vehicle on the date of such violation, subject to liability for the violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law pursuant to this local law and shall be sent a notice of liability pursuant to section 4 of this local law.

D. A certificate, sworn to or affirmed by a technician employed by the County, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotapes, other recorded images produced by a school bus photo violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotapes, other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation.

E. It shall be a defense to any prosecution for or allegation of a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law pursuant to this local law that such school bus stop-arms were malfunctioning at the time of the alleged violation.

F. For the purpose of informing and educating owners of motor vehicles in this County during the first thirty-day period in which a school bus photo violation monitoring system is in operation pursuant to the provisions of this local law, all owners of motor vehicles who would otherwise be held liable for failure of operators thereof to comply with section 1174 of the New York Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions 20 – 21-c of section 375 of such law, shall be issued a written warning in lieu of a notice of liability.

SECTION 6. Adjudication of Liability.

Liability pursuant to the demonstration program established hereunder shall be imposed upon owners by the Court of competent jurisdiction in Orange County or in any other manner pursuant to the New York State Vehicle and Traffic Law.

SECTION 7. Action for Indemnification.

If the owner held liable for a violation of subdivision (a) of section 1174 of the New York Vehicle and Traffic Law pursuant to this local law was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

SECTION 8. Reporting requirements.

A. The County, acting by and through the Commissioner of the Department of Consumer Affairs and Weights and Measures shall develop and cause to be submitted an annual report on the results of the use of a school bus photo violation monitoring system to the Governor, the temporary president of the Senate and the speaker of the Assembly on or before June 1 of each year in which the demonstration program is operable. Such report shall include any information required by State Law to be included as a result of the enactment of this local law⁷.

B. Pursuant to the requirements of Section 1174-a of the New York State Vehicle and Traffic Law, courts, bureaus, and agencies conducting adjudications as a result of this local law shall report at least annually to the County on the quality of the adjudication process and its results including the total number of hearings scheduled, re-scheduled, and held; the total number of persons scheduled for such hearings; the total number of cases where fines were paid on or before the hearing date; and the total number of default judgments entered.

C. The County, acting by and through the County Commissioner of Consumer Affairs and Weights and Measures shall annually provide a copy of the annual report submitted pursuant to subsections a and b of this section, to each local law enforcement agency having jurisdiction to enforce violations of the vehicle and traffic law or any ordinance, rule or regulation relating to traffic adopted pursuant to such law on roadways within the County.

SECTION 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 10. Effective Date

This local law shall take effect as provided by the New York State Municipal Home Rule Law and upon completion of the requisite filings and procedures and shall remain in full force and effect only until December 1, 2024.

DATED: NOVEMBER 7, 2019

ENACTED BY THE FOLLOWING VOTE:
Ayes 20; Noes 0; Absent 1
(Absent: Sutherland)

Filed with the Secretary of State: 12/20/19
Effective: 12/20/19

⁷ For reference only, see Section 1174-a(m) of NYS Vehicle and Traffic Law.