

Minutes  
Village of Orchard Park  
Board of Trustees

The regular meeting of the Board of Trustees of the Village of Orchard Park was held on Monday, September 28, 2020 in the Municipal Center, 4295 South Buffalo Street, Orchard Park, New York. Mayor Clinton called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Members present:

Mayor Jo Ann Litwin Clinton  
Deputy Mayor Matthew J. Hartung  
Trustee Francis T. Hogenkamp  
Trustee James C. Cosgrove  
Trustee Lauren A. Kaczor

Others present:

Clerk-Treasurer Mary Beth Jensen  
Manager of Public Works Wittmeyer

Mayor Clinton made the following announcement:

“Fire exits are located at the rear in the Board Room and at the doorway to the lobby. In the event of a fire, you will be notified by announcement on the public address system. If notified, please move in a calm and orderly fashion to the nearest exit.”

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 187 of the Municipal Code of the Village of Orchard Park entitled, “Streets and Sidewalks”.

Mayor Clinton opened the hearing at 7:01 p.m., giving a brief explanation of the Local Law, noting that copies were available on the front rail.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Hogenkamp, seconded by Trustee Cosgrove to close the Public Hearing at 7:02 p.m.

On the question:   4 voting “Aye”   0 voting “Nay”                   Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Cosgrove, seconded by Trustee Kaczor that the following Local Law of 2020 be adopted, amending Chapter 187 of the Village of Orchard Park Code entitled “Streets and Sidewalks”

**SECTION 1:**   Adding to Section 187-3 **Driveways; drainage ditches.**

- B. Driveway aprons, are required between sidewalks and curbing and must be a minimum of six (6) inches deep and constructed of asphalt.

Installing sidewalks inside of right of way as directed by the Department of Public Works.

**SECTION 2:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 204 of the Municipal Code of the Village of Orchard Park entitled, "Vehicles, Junk".

Mayor Clinton opened the hearing at 7:03 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Kaczor, seconded by Trustee Hartung to close the Public Hearing at 7:04 p.m.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that the following Local Law of 2020 be adopted, amending Chapter 204 of the Village of Orchard Park Code entitled "Vehicles, Junk"

**SECTION 1:** Amending Section 3 **Definitions**

Amending the definition of JUNKED MOTOR VEHICLE to read:  
Any motor vehicle that is wrecked, discarded, abandoned or dismantled or partially dismantled which is in such deteriorated condition that it cannot be legally operated upon the public highway without substantial repairs. With respect to any motor vehicle not required to be licensed or motor vehicles not usually used on public highways, the fact that such motor vehicle has remained unused for more than three (3) months and is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a junked motor vehicle.

**SECTION 2:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 105 of the Municipal Code of the Village of Orchard Park entitled, "Electrical Standards".

Mayor Clinton opened the hearing at 7:05 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Cosgrove, seconded by Trustee Hogenkamp to close the Public Hearing at 7:06 p.m.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Kaczor, seconded by Trustee Cosgrove that the following Local Law of 2020 be adopted, amending Chapter 105 of the Village of Orchard Park Code entitled "Electrical Standards"

**SECTION 1:** Amending Section 105-1 **Authorization of Inspections**, to read as follows:  
The Chief Inspector and each of the duly appointed inspector of the Commonwealth Electrical Inspection Service and other approved inspection agencies are hereby authorized and deputized as agents of the Village to make inspections and re-inspections of all electrical installations hereinafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspection be a charge against the Village.

**SECTION 2:** Amending Section 105-6 **No waiver or assumption of liability**, to read as follows:  
This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Village or Commonwealth Electrical Inspection Service be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

**SECTION 3:** Amending Section 105-7 **Violations**, to read as follows:

- A. It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed, or to alter or repair electrical wiring for light, heat or power, in or on properties in the Village until an application for inspection has been filed with Commonwealth Electrical Inspection Service.
- B. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by Commonwealth Electrical Inspection Service.

**SECTION 4:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
 Trustee Hogenkamp  
 Trustee Hartung  
 Trustee Cosgrove  
 Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 176 of the Municipal Code of the Village of Orchard Park entitled, "Sewers".

Mayor Clinton opened the hearing at 7:07 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Hartung, seconded by Trustee Kaczor to close the Public Hearing at 7:08 p.m.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
 Trustee Hogenkamp  
 Trustee Hartung  
 Trustee Cosgrove  
 Trustee Kaczor

Moved by Trustee Hogenkamp, seconded by Trustee Hartung that the following Local Law of 2020 be adopted, amending Chapter 176 of the Village of Orchard Park Code entitled "Sewers"

**SECTION 1:** Amending Section 176-3 **Inspection prior to transfer of title.**

Adding:

**B. Laterals**

A permit is required for new sewer laterals and repairs. Inspections by the Village are required to determine compliance.

**SECTION 2:** Amending Section 176-6 Fees, to read as follows:

The Village shall charge and the Code Enforcement Officer shall collect before issuing a permit the following fees as set forth in Chapter A232, Fees:

- A. First inspection.
- B. Each subsequent inspection required by the Code Enforcement Officer prior to issuing a permit.

**SECTION 3:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye"      0 voting "Nay"      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 92 of the Municipal Code of the Village of Orchard Park entitled, "Building Code Administration and Enforcement".

Mayor Clinton opened the hearing at 7:08 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Hogenkamp, seconded by Trustee Cosgrove to close the Public Hearing at 7:09 p.m.

On the question: 4 voting "Aye"      0 voting "Nay"      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Cosgrove, seconded by Trustee Kaczor that the following Local Law of 2020 be adopted, amending Chapter 92 of the Village of Orchard Park Code entitled "Building Code Administration and Enforcement"

**SECTION 1:** Amending Chapter 92-4 Building Permits, (B) Exemptions to read:

- B. Exemptions. No building permit shall be required for work in any of the following categories:
  - (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-

- family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area is less than 144 square feet (13.38 square meters);
- (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
  - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
  - (5) Construction of landscaping walls less than thirty (30) inches in height;
  - (6) Painting, wallpapering, tiling, carpeting, or other similar finish work in one/ two family residences;
  - (7) Replacement of any HVAC equipment or plumbing fixtures in one/ two family residences, provided the replacement does not alter the equipment's Underwriter's Laboratories listing or render it inconsistent with the equipment's original specifications; or

**SECTION 2:** Amend Chapter 92-5 **Construction inspections**, (B) as follows:

- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, including but not limited to:

**SECTION 3:** Amend Chapter 92-10 as follows:

- A. Operating permits required.

- (1)(b) Hazardous materials, processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

**SECTION 4:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye"      0 voting "Nay"      Carried  
 Trustee Hogenkamp  
 Trustee Hartung  
 Trustee Cosgrove  
 Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 88 of the Municipal Code of the Village of Orchard Park entitled, "Animals".

Mayor Clinton opened the hearing at 7:10 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Cosgrove, seconded by Trustee Hartung to close the Public Hearing at 7:12 p.m.

On the question: 4 voting "Aye"      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Kaczor, seconded by Trustee Hogenkamp that the following Local Law of 2020 be adopted, amending Chapter 88 of the Village of Orchard Park Code entitled "Animals"

**SECTION 1:**      Amending Section 88-7 **Dog limit per household** as follows:  
A. No household shall keep more than three dogs, four months of age or older, on any residence in the Village of Orchard Park. The owner and/or occupant must keep domestic animals in an appropriate manner and control.

**SECTION 2:**      EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye"      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

A public hearing was scheduled and advertised for this time to allow public comment on proposed Local Law of 2020, amending Chapter 225 of the Municipal Code of the Village of Orchard Park entitled, "Zoning".

Mayor Clinton opened the hearing at 7:12 p.m., giving a brief explanation of the Local Law.

Mayor Clinton asked three times for supporting comments of the proposed Local Law. There were none.

Mayor Clinton asked three times for opposing comments of the proposed Local Law. There were none.

Moved by Trustee Cosgrove, seconded by Trustee Hogenkamp to close the Public Hearing at 7:13 p.m.

On the question: 4 voting "Aye"      0 voting "Nay"                      Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Kaczor, seconded by Trustee Hartung that the following Local Law of 2020 be adopted, amending Chapter 225 of the Village of Orchard Park Code entitled "Zoning"

**SECTION 1:** Amending 225-12 **Accessory uses and structures.** adding:

G. Housing of Animals

- (1) A parcel having less than five (5) acres may not house livestock including but not limited to poultry, horses and sheep.
- (2) A parcel having more than five (5) acres may house livestock no closer than one hundred feet (100 ft.) of any lot lines.
- (3) No odor, smoke and/ or dust producing materials shall be located within one hundred (100 ft.) of any lot line.
- (4) The owner or occupant must keep livestock in an appropriate manner and control.

**SECTION 2:** Amending 225-12 (F)(1)(a) to read as follows:

F. Accessory structures in R-Districts.

- (1)(a) An accessory building shall not exceed one story or fourteen feet (14) feet in height and may occupy not more than 25% of a required rear yard.

**SECTION 3:** Amending 225-17 **Parking and Automotive Services.** adding

- A.(1)(d) Surfacing. Every automotive use area and access driveway thereto shall be surfaced with a durable and dustless material and shall be so graded and drained as to dispose of surface water accumulation.

**SECTION 4:** Amending 225-18 Signs F(2)(c) to read:

- F.(2)(c) Only one freestanding or Pedestal sign shall be permitted per lot of record.

**SECTION 5:** Amending 225-18 Signs, adding:

C. General requirements.

7) Design and Construction. All signs shall be designed and constructed in accordance with the following criteria:

- (a) All signs shall be constructed of permanent, weather- resistant, and durable materials.
- (b) Where applicable, signs shall be supported by sign structures that are designed to resist wind pressures, dead loads and lateral loads in accordance with the appropriate provisions of the New York State Building Code. All sign supports shall be reviewed as part of the sign design and approval process.
- (c) All sign lettering shall be permanently affixed to the sign. Manual changeable copy signs shall be enclosed and locked.
- (d) No permanent sign may be constructed of untreated or unpainted wood, sandblasted metal, or unfinished material.

8) Obsolete signs. Any sign that no longer advertises or identifies the current or permitted use of the property must be removed within thirty (30) days after written notification from the Code Enforcement Officer.



9) Removal of Signs.

- (a) Where required by this article, the removal of signs shall be the sole responsibility of the sign owner/ or property owner. If the sign is not removed within thirty (30) days of the date of written notice by the Code Enforcement Officer, the Code Enforcement Officer is authorized to effect its removal.
- (b) The Code Enforcement Officer may remove, without any further notice any temporary sign or sign not requiring a permit that is found to be in violation of this article. The property and/ or sign owner shall subsequently be given written notice of such sign removal. If the sign is not claimed within ten (10) days of the written notice, the Code Enforcement Officer may dispose of said sign.
- (c) Any costs incurred for the removal of a sign shall be fully reimbursed to the Village by the sign owner and/ or property owner. Such costs may be placed on the tax rolls for collection by the Village Clerk.

**SECTION 6:**

Amend Section 225-18 **Signs**, section D(2) to read as follows:

D. **Prohibited signs.** The following signs are prohibited:

- (2)(a) Political signs; provided, however, political signs may be erected on a building designated as "party headquarters" for a recognized party. Such political signs may be erected not more than 60 days prior to the election and must be removed within two (2) days after the election. No sign permit shall be required for such signs.
- (2)(b) Temporary election signs. For each parcel, one temporary election sign with a surface area of four (4') Square ft. or less may be displayed for each candidate and each issue. Such political signs may be erected not more than thirty (30) days prior to the election and must be removed within two (2) days after the election to which it pertains. The temporary election signs allowed under this section are in addition to a temporary free expression sign and any other sign allowed under this chapter. Sign shall not exceed four ft. (4') in height. A temporary election sign shall be set back a minimum of five ft. (5') from any lot line. No permit is required for a temporary election sign under this subsection. Placement of signs prior to 30 days or failure to remove said signs within the removal time period or will result in a fine of \$25.00 per day to the property owner.

**SECTION 7:**

225-18 **Signs**, adding:

(H) **Temporary and Special Purpose Signs.**

(8) **Lawn Signs.** A single lawn sign shall be allowed on any lot without permit, provided it is in compliance with the regulations below:

- (a) The sign does not exceed three (3) ft in height and six square feet in area;
- (b) The sign is not displayed for more than 30 days;
- (c) The sign is not illuminated;
- (d) The sign maintains at least five-foot (5') setback from all lot lines;

- (e) The sign does not impede the traffic or visibility of pedestrians, bicycles or motorists;
- (f) Signs are not permitted on vacant lots and,
- (g) Non-residential lots exceeding one hundred (100) feet in width are permitted two (2) additional signs.

**SECTION 8:** Amend Chapter 225 Attachment 1, Schedule 1:  
Under B-1 and B-2 Commercial Zoning:  
Special Use Column: Under Eating and Drinking Establishments  
add Outdoor Seating

**SECTION 9:** EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Cosgrove to accept the minutes of September 14, 2020 as presented.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hartung, seconded by Trustee Hogenkamp that the vouchers numbering 3664 to 3688 in Abstract #6 of 2020-2021 in the amount of \$53,076.94 be paid as presented.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

There were no comments from the floor of items not on the agenda.

- Manager of Public Works Wittmeyer had nothing to report.
- Trustee Kaczor had nothing to report.
- Deputy Mayor Hartung reported
  - The Department of Public Works replaced the water pit, which was very old.
  - He received notice that the street light poles were scheduled to ship this week.
- Trustee Hogenkamp reported that Deputy Mayor Hartung assisted the DPW in replacing the meter pit.
- Trustee Cosgrove had nothing to report.
- Clerk Treasurer Jensen had nothing to report.
- Mayor Clinton had nothing to report.

Moved by Trustee Cosgrove, seconded by Trustee Hogenkamp, that the Village of Orchard Park establish the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the time-keeping system records of activities maintained and submitted by these officials to the clerk of this body. The detailed information is available on the Village website.

<u>TITLE</u>	<u>NAME</u>	<u>STANDARD WORK DAY</u>	<u>TERM BEGINS / ENDS</u>	<u>DAYS PER MONTH REPORTED</u>	<u>TIME KEEPING SYSTEM</u>
Clerk to Village Justice	Marie Falzone	6 hour work day	Term: 4/13/20 – 4/12/21	1.16 days per month	no
Part Time Clerk	Cynthia Jondle	6 hour work day	Term: 4/13/20 – 4/12/21	1 day per month	no
Deputy Clerk and Treasurer	Marcia Nickerson	7 hour work day	Term: 4/13/20 – 4/12/21	20 days per month	yes
Trustee	James Cosgrove	6 hour work day	Term: 4/6/2020 - 4/5/2021	2 days per month	No
Trustee	Lauren Kaczor	6 hour work day	Term: 4/6/2020 - 4/5/2021	1 days per month	No

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
 Trustee Hogenkamp  
 Trustee Hartung  
 Trustee Cosgrove  
 Trustee Kaczor

Moved by Trustee Kaczor, seconded by Trustee Hogenkamp that the following amendments be made to the Fee Schedule §A232-1:

**Adding to:**

Chapter 92 Building Code Administration & Enforcement

Change of Use	\$ 50
Repair Permit	\$ 50
Non-Residential Repair Permit	\$100

**Revising:**

Chapter 176, Sewers to read as follows:

First inspection	\$75
Each subsequent inspection required by the Code Enforcement Officer	\$25

**Adding to:**

Chapter 176, Sewers  
Repairs

\$50

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Moved by Trustee Hogenkamp, seconded by Trustee Cosgrove that Clerk Treasurer Jensen be authorized to pay all vouchers submitted by October 14th, after review by Deputy Mayor Hartung or Mayor Clinton.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

The next regular meeting is scheduled for October 26, 2020.

Moved by Trustee Hartung, seconded by Trustee Cosgrove to adjourn at 7:18 p.m.

On the question: 4 voting "Aye" 0 voting "Nay" Carried  
Trustee Hogenkamp  
Trustee Hartung  
Trustee Cosgrove  
Trustee Kaczor

Respectfully submitted,  
Mary Beth Jensen, Village Clerk-Treasurer