

Resolution No. ____ of 2019

Resolution to adopt Local Law #1 of 2019, to amend the Zoning Code of the Village of Chestnut Ridge, specifically:

>Article XVIII, “Word Usage”, to add definitions contained in the local law;

>Article XII, “Conditional Uses and Special Permit Standards”, to add Conditional Use/Special Use Permit Conditions for newly proposed Residential Gathering Places, Neighborhood and Community Places of Worship to be included in Article XII;

>The Zoning Code’s Table of General Use Requirements, to amend said Table to include Residential Gathering Places, Neighborhood Houses of Worship, Community Places of Worship, and Minimum Off-Street Parking Requirements to the RR-50, R-40, R-35, R-25, R-15, RSH, NS, PO, PO-R, and RS zoning districts;

>Article VII, “Parking and Loading”, to delineate the size, type and location of parking spaces; and,

>Article 12, “Conditional Use and Special Permit Standards”, to address the duration and renewal provisions of special permits and conditional use permits

WHEREAS, on or about November 1, 2017, the Village Board received a written petition requesting specific text amendments to the Chestnut Ridge Zoning Code from Brooker Engineering, PLLC, in letter form, submitted on behalf of the Orthodox Jewish Coalition of Chestnut Ridge (“Brooker Engineering”, “OJC”, and the “Petition”), which Petition referred to the changing demographic profile of Chestnut Ridge, referenced to an increase in the number of Orthodox Jewish families moving into the Village, and which proposed certain specific text amendments to the existing Chestnut Ridge Zoning Code to address a need for what Brooker Engineering referred to as “a need for a number of varied synagogues within Village neighborhoods” to “accommodate their religious need to pray within walking distance of their homes” (the letter also requested certain specific amendments to the Village’s Zoning Code purporting to accommodate that particular religious practice). **[The Brooker Engineering letter of November 1, 2017 is attached hereto and made a part hereof as Exhibit “A”].**

WHEREAS, as result of additional oral testimony, and written correspondence and communications submitted to the Village in connection with the Village Board’s eventual deliberation and consideration of this local law (some of which are referred to hereinbelow), it is

apparent that some members of the OJC are in fact residents of the Village of Chestnut Ridge, as was asserted in the Brooker Engineering letter of November 1, 2017; and

WHEREAS, Chestnut Ridge Zoning Code Article XVII, entitled “Amendments”, provides that “This local law, or any part thereof, may be amended, supplemented or repealed from time to time by the Village Board on its own motion or upon recommendation of the Planning Board, or by petition”; thus, the Village Board finds that any resident of the Village of Chestnut Ridge have the right under the existing Village law, at any time, either before or after the November 1st Brooker Engineering letter, to petition the Village Board of Trustees to amend the Zoning law. **[A copy of Chestnut Ridge Zoning Code Article XVII, “Amendments”, is attached hereto and made a part hereof as Exhibit “B”].**

WHEREAS, the Chestnut Ridge Village Board, based on the record before it consisting of public testimony and written submissions, and also based upon the Board’s general knowledge of the Jewish faith, finds that the legitimate practice of the Orthodox Jewish faith may in fact require its adherents to pray in various size groups (and therefore have varied size places of worship to accommodate their religious practice), to walk to services on the Sabbath, and to therefore have places of legitimate worship near or in residential neighborhoods where its congregants reside¹; and

WHEREAS, significantly, the Chestnut Ridge Village Board finds that other faith based denominations, or other groups asserting a right of assembly, completely unrelated to the Orthodox Jewish faith, may have similar needs which require municipal regulation to protect the health, safety and welfare of of Village residents; and

¹ The Village Board is cognizant of its well settled legal obligation to reasonably accommodate religious uses within the Village of Chestnut Ridge, to not unreasonably limit religious uses or broadly limit where they can located, and to implement its land use regulations in a manner that does not discriminate against any assembly or institution on the basis of religion or religious denomination. However, the reference to the “Orthodox Jewish faith” alone in the Brooker Engineering letter focuses on a single religious denomination, while the proposed law that the Village Board is considering is specifically adopted for neutral purposes, applies across the board to all religious assembly, and for all purposes of assembly on its residential tiered level, whether religious or not, and was designed specifically to ensure that the regulation of assemblies and places of worship within the Village of Chestnut Ridge foresee and accommodate the needs of any and all religions and assemblies which may choose Chestnut Ridge as their home (See the Village Board’s legislative purpose and history reflected in the Village Planner’s Memorandum attached as Exhibit “C”).

WHEREAS, the Village Board, in consultation with the Village Planner and Village Attorney, determined that the specific zoning changes contained in the November 1, 2017 Brooker Engineering petition were not acceptable changes to the current zoning law; however, the Village Board requested that the Village Planner examine the Petition and report back to the Village Board with a Memorandum addressing the issues raised in the Petition, and to review the proposed text amendments referenced in the Petition as well; and

WHEREAS, on February 9, 2018, the Village Planners provided the Village Board with a Memorandum and proposed modifications to the Zoning Code's existing provisions regarding establishing Houses of Worship in the Village of Chestnut Ridge, which Memorandum, inter alia, cited the following objectives:

1. To comply with Federal and State statutory and case law regarding the zoning of religious uses, including utilizing the least restrictive means of furthering compelling public interests when regulating religious uses through zoning.
2. To protect the residential character and quality of existing neighborhoods which currently house a diverse population of many faiths, but which all chose Chestnut Ridge in order to live in largely high-quality, low-density, single-family detached neighborhoods of a quiet, wooded and suburban character;
3. To remove impediments to the free practice of religion, such as allowing for smaller-scale places of worship customary to Orthodox congregations which are precluded from driving on holy days;
4. To ensure that the regulations of places of worship foresee the needs of other religions which may choose Chestnut Ridge as their home.

[The Village Planner's February 9, 2018 Memorandum is attached hereto and made a part hereof as Exhibit "C" – Note that the date of "2017" is erroneously cited on the Memorandum].

WHEREAS, the Village Planner's Memorandum, which contained the first draft of the local law presently under consideration, was circulated at the regularly scheduled meeting of the Village Board of Trustees held on February 22, 2018.

WHEREAS, in accord with the “Amendment” provisions in the Chestnut Ridge Zoning Code, Article XVII (1) (**See Exhibit “B”**), the Village Board referred the February 9, 2018 Memorandum and proposed zoning code amendments to the Chestnut Ridge Planning Board for a “report” on or about April 1, 2018; and

WHEREAS, on May 29, 2018, the Planning Board sent back comments on the proposed local law, which comments contained substantive comments on the actual text of the local law, as well as the Planning Board’s comments, inter alia, on its interpretation of the Establishment Clause in the United States Constitution. [**The Planning Board’s May 29, 2018 report is attached hereto and made a part hereof as Exhibit “D”**].

WHEREAS, on or about June 25, 2018, the Village Planner (Max Stach AICP) distributed a Full Environmental Assessment Form Part I (LEAF) for the proposed local law; and

WHEREAS, on June 28, 2018, the Village Board, as required under Village Code Article XVII (3) (**See Exhibit “A”**), held a duly advertized Public Hearing on the proposed local law drafted by the Village Planner in an attempt to solicit public comment on the substance of the proposed law to assist in the further development of the text of the first draft of the proposed local law produced on February 9, 2018; and

WHEREAS, on June 28, 2018, the Village Board accepted extensive written and verbal comments on the proposed local law (the public hearing was well attended by members of the community, the attendance was estimated to exceed 500 persons); and

WHEREAS, although the June 28, 2018 Public Hearing was designed to solicit public comment on the substance of the proposed local law, it became difficult for the Village Board to discern cogent public comment from catcalls, shouting down of individuals who spoke in favor of the proposal, outright animus, and even discriminatory bias demonstrated against the Orthodox Jewish residents of Chestnut Ridge and members of the Village Boardⁱ; [**The minutes of the June 28, 2018 Public Hearing are attached hereto and made a part hereof as Exhibit “E”**].

WHEREAS, the Village Board wholly rejects any and all animus and discriminatory bias expressed at the June 28, 2018 Public Hearing.

WHEREAS, a group of Village residents, who identified themselves as an entity called Citizens United to Protect our Neighborhoods (“CUPON”), retained a professional Planner, Alan J. Sorenson, AICP of Planit Main Street, Inc., who spoke at the June 28th Public Hearing, and submitted written comments for the Village Board to consider as well. **The written submission of Mr. Sorenson (“Planit report”) from the June 28, 2018 Public Hearing is attached hereto and made a part hereof as Exhibit “F”].**

WHEREAS, the Village Board finds that the Plaintiff Report is deficient in several significant respects, and that those deficiencies undermined the report’s value and weight during the Board’s deliberation on the proposed local law. The deficiencies include but are not limited to:

1. The Plaintiff Report places a strong emphasis on the fact that the proposed local law would permit the establishment of a house of worship in “every single residential neighborhood and street in the Village” – yet ignores the fact that the current Village Code similarly permits the establishment of places of worship in the exact same residential zoning districts. This deficiency shows a lack of understanding of the present zoning regulations in the Village of Chestnut Ridge. Furthermore, the Plaintiff Report failed to recognize that other Special Permit and Conditional Uses are currently allowed in residential zoning districts in Chestnut Ridge, which include (but are not limited to):

- Nursery Schools
- Libraries, Museums and Art Galleries
- Nursing homes
- Volunteer Ambulance Services
- Schools

The Village Board finds, based on the input from the Village Planner, that Residential Gathering Places or Places of Worship cannot reasonably be presumed to have any impacts that would be any more detrimental or difficult to mitigate as compared to any of the other Special Permit or Conditional Uses already permitted in residential zoning districts in Chestnut Ridge. For the Plaintiff Report to ignore the existence of other Special Permit and Conditional uses already permitted in the Village’s residential districts reveals an unfamiliarity with the Village’s current zoning code.

2. The Plaintiff Report clearly concludes that residential neighborhoods are not suitable locations for places of worship (“Neighborhoods are not intended to be places bustling with pedestrian and vehicular activity related to places of worship”). This conclusion not only ignores the fact that the establishment of a house of worship is already permitted in all existing

residential zones in Chestnut Ridge under current zoning, but it belies ignorance of the basic long standing legal principal that houses of worship are inherently beneficial to residential neighborhoods. This apparent lack of an understanding of applicable legal principals fundamental to religious land uses in residential neighborhoods calls into question the conclusions drawn in the Planit Report.ⁱⁱ The Village Board finds that, clearly, under applicable law, Residential Gathering Places or Places of Worship are, at a minimum, not presumed to have any impacts that would be any more detrimental or difficult to mitigate as compared to any of the other Special Permit or Conditional Uses already permitted in residential zoning districts in Chestnut Ridge. Additionally, the Village Board finds that no basis in law exists to wholly exclude places of worship from residential zoning districts as suggested in the Planit Report.

3. Finally, the Planit Report concludes, based in large part on the faulty reasoning above, that the potential for environmental impacts caused by the proposed law call for a positive declaration under SEQRA and the preparation of a DEIS – yet the Planit Report ignores the obvious fact that not a single project has yet been put forth under the proposed local law, it conducts no analysis of what the potential environmental impacts of establishing houses of worship under the current law are as compared to what would occur under the proposed local law (again, ignoring the fact that houses of worship are already permitted in every residential zoning district under the existing zoning code), notably fails to mention new aspects (Conditional Use/Special Permit standards) of the proposed local law designed to mitigate impacts of future applications under the proposed law on neighboring properties (protections completely absent from the current zoning code provisions), and fails to mention the fact that a site specific SEQRA analysis would be conducted by the Planning Board for every application made under the proposed law. The Village Board finds that the site specific analysis of potential applications will be far better suited to identify and mitigate potential environmental impacts than the sweeping conclusions of destruction and monumental changes set forth in the Planit Report, those conclusions having been made without any basis in empirical fact or consideration of real conditions in existing areas of the Village.

WHEREAS, a citizen group also retained two attorneys who spoke and submitted written comments at the June 28, 2018 Public Hearing, one of whom stated to the Village Board that he intended to address “both the audience and the Board”, and identified his clients as “good Americans”. [See Exhibit “E”, page 29].

WHEREAS, an attorney espoused conspiracy theories as to the genesis of the proposed law [See Exhibit “E”, page 30-31, *see also* Exhibit “I”, page 3, when the attorney stated “this law

was born in sin”] (which theory was repeated throughout all proceedings by members of the public giving testimony at the Public Hearing), similarly did not acknowledge that the current zoning code permits the establishment of places of worship in the exact same residential zoning districts in which they would be permitted under the proposed local law, did not speak to what, if any, incremental increase in environmental impacts might be identifiable in the application of the current law versus those resulting from the implementation of the proposed law, and did not mention the new specific provisions in the proposed local law designed to mitigate environmental and other impacts - yet he concluded that the proposed law would “destroy” the community. **[See Exhibit “E”, page 32].**

WHEREAS, within the totality of the comments at the public hearing on June 28th were legitimate and cogent comments as to specific provisions in the law (including those made by Mr. Sorenson and an attorney as to parking provisions, accessory activities, and occupancy limits in particular places of worship), which were considered and incorporated into later versions of the proposed local law.

WHEREAS, uncontroverted testimony was also given (over yells and boos from the crowd), that “communal worship services are central to religious beliefs” of certain religions, and expressed support for the proposed local law to “accommodate the ability of members of our community and those of other faith communities who also wish to engage in communal worship to be able to build houses of worship”. **[See Exhibit “E”, page 41-43].**

WHEREAS, the Village Board specifically finds and emphasizes the uncontroverted fact that the proposed local law applies in a neutral manner to all assembly and faith communities who may undertake “communal” assembly activities; and

WHEREAS, on June 28, 2018 the Village Board declared its intent to be lead agency for the SEQRA review for this action, determined the action to be a Type I Action under SEQRA, requested changes to be made to the LEAF and authorized staff, after the receipt of these revisions, to circulate its Notice of Intent (NOI) to be Lead Agency, together with the proposed local law, with the LEAF form and the notice for the date of the next public hearing to the following interested agencies pursuant to the provisions of the New York State General Municipal Law 239-m: (1) The Rockland County Department of Planning & Sewer District, (2) The Town of Orangetown, (3) The Town of Ramapo, (4) The Town of Clarkstown, (4) The

Village of Spring Valley, and (4) The Village of Airmont ; and after a 30 day period the Village Board assumed lead agency status for the coordinated SEQRA review of this action.

WHEREAS, the Public Hearing was held open and continued until July 24, 2018, at which time continued public comment was taken. **[The minutes of the July 24, 2018 Public Hearing are attached hereto and made a part hereof as Exhibit “G”].**

WHEREAS, while similar expression of animus and bias, unrelated to the actual text of the local law under consideration, continued to be pervasive throughout the July 24, 2018 Public Hearingⁱⁱⁱ, additional comments helpful to the Village Board’s consideration of the proposed local law were received into the record at the continued public hearing, regarding the “Foster Church” and the “Coptic Church” (existing houses of worship in Chestnut Ridge located in or adjacent to residential neighborhoods), and that “Houses of worship should be away from established residential neighborhoods, preferably in different zoning such as business where parking is not an issue” – reflecting the public’s understanding of the presence of assembly or religious uses in residential neighborhoods **[See Exhibit “G” at p 162].**

WHEREAS, the Public Hearing was again held open after the July 24, 2018 Public Hearing session.

WHEREAS, on or about August 8, 2018, the Village Board in a Workshop session discussed SEQRA and the input received from the GML referral agencies (Rockland County Planning comments dated March 26, 2018, Rockland County Sewer Department comments dated April 12, 2018, Town of Clarkstown comments dated April 26, 2018, Town of Orangetown comments dated July 2, 2018 (email from Supervisor Day) (all of those comments are incorporated into this Resolution as if they had been fully set forth herein), from the public both for and against the proposed local law, and then directed the Village Planners to revise the draft local law to reflect those comments to the extent that they related to the actual substance of the proposed law; and

WHEREAS, a revised draft of the local law was submitted to the Village Board of Trustees by the Village Planners on or about August 28, 2018; and

WHEREAS, on or about September 18, 2018 the second draft of the proposed local law was resubmitted to the Rockland County Planning Department for further comment pursuant to the relevant provisions of the General Municipal Law (the revised local law was also resubmitted to the Towns of Clarkstown, Orangetown, Ramapo, and the Villages of Airmont and Spring Valley per the direction of the Rockland County Department of Planning Department); and

WHEREAS, on or about October 26, 2018, a FEAF Part 2 regarding the proposed local law was prepared by the Village Planner and submitted to the Village Board of Trustees, together with a corrected Part 1 to replace the previously submitted FEAF Part 1 (dated June 28, 2018).

WHEREAS, the second set of comments from the Rockland County Planning Department, dated October 18, 2018, was received by the Village Board, and each comment was incorporated into the final draft of the local law under consideration by the Village Board; and

WHEREAS, On November 20, 2018, the Village Board continued the Public Hearing on the proposed local law, again accepting testimony and written comments at the continued Public Hearing. **[The minutes of the November 20, 2018 Public Hearing are attached hereto and made a part hereof as Exhibit “H”].**

WHEREAS, once again, similar expression of animus and bias, unrelated to the actual text of the local law under consideration, continued to dominate the November 20, 2018 Public Hearing, including a reference that kicking over a table and “shooting” would have been the “founding fathers” “response” to RLUIPA.^{iv}

WHEREAS, once again, additional comments helpful to the Village Board’s consideration of the proposed local law were received into the record at the November 20th Public Hearing, for example, a proposal to restrict the use of cars travelling to a house of worship was proposed unless there was “very bad weather” or “ill health” of a congregant **[See Exhibit “H” at p 36 comment of resident Mr. Jerry Liebelson]**, a proposal that property owners unable to comply with full onsite parking requirements should be mandated to undertake “carpooling, a van service, whatever” since that would be better than “having it spread out all over the god damn neighborhood” **[See Exhibit “H” at p 37, comment of resident Mr. Jerry Liebelson]**, and a proposal that “inspections” of houses or worship should be “yearly and unscheduled” **[See**

Exhibit “H” at p 40], – all comments helpful to the Board in understanding the depth of opposition to the proposed law, as well as the public’s desire to have regulations in place to control and monitor the impact of the establishment of an assembly place or house of worship in a residential neighborhood.

WHEREAS, in addition to the public comment at the November 20th hearing, opponents of the proposed local law submitted many hundreds of form letters in opposition to the law; and supporters of the proposed local law submitted many hundreds of letters in support of the law – the letters both supporting and opposing the project have continued to be submitted for many months (up to the date of this Resolution). All letters submitted are part of the public record and have been taken into consideration by the Village Board.

WHEREAS, on December 27, 2018, the Village Planner submitted another revised draft of the proposed local law based on the comments heard and received at and after the November 20, 2018 Public Hearing.

WHEREAS, on January 9, 2019, a LEAF Part 3 was submitted to the Village Board by the Village Planer, taking into account all public comment on the potential environmental impact of the proposed local law, and reflective of the Village Planner undertaking an analysis of the incremental impact between potential for establishing houses or worship or places of assembly under the current local law versus under the proposed local law, analyzing the impacts of potential environmental impacts identified on the LEAF Part 2, and, inter alia, analyzing the potential environmental impacts of the proposed local law in terms of projecting the number of potential applications for places of assembly under the proposed law by examining similarly situated municipalities with similarly worded ordinances (to evaluate and address public comments as to the potential for the proliferation of places of assembly or worship under the proposed local law).

WHEREAS, the LEAF Part 3 also recognized the proposed local law’s function in terms of recognizing and implementing a neutral regulatory framework, applicable to all assembly and religious uses regardless of denomination, which was designed to comply with state and federal law regarding the opportunity to establish, under facially neutral laws regulating the establishment of assembly places and places of worship, with provisions designed to balance and minimize the impact of these types of uses on the surrounding neighborhoods through the use of

bulk controls, occupancy controls, shielding of outdoor lighting, architectural review of building plans, screening in rear and side yards, front yard restrictions, limitations on hours of operation, limitations on accessory uses, control of signage, and the imposition of landscape requirements. The Village Board finds that all of these specifically included standards contained in the proposed local law serve to mitigate its potential environmental impacts in ways not available under the existing zoning code, leading the Village Board to conclude that the language in the proposed local law offers greater protection from environmental and other impacts than the language in the existing zoning code.

WHEREAS, on January 10, 2019, the Village Planner submitted an additional revised draft with very minor corrections to the proposed local law to correct some wording issues in the Neighborhood Places of Worship section of the proposed local law and subsequently submitted comments on the proposed local law.

WHEREAS, the Village Board continued the public hearing on January 15, 2019, and again accepted further public comment and written submissions. **[The minutes of the January 15, 2019 Public Hearing are attached hereto and made a part hereof as Exhibit “I”].**

WHEREAS, the public comment at the January 15, 2019 Public Hearing continued to express the conclusion that permitting houses or worship in residential areas was improper, and also continued to express animus directed to the Village Board in comments unrelated to the substance of the proposed local law.^v

WHEREAS, the public comment at the January 15th Public Hearing focused on one particular religious group, but again, Village Board finds that the proposed law is specifically adopted on a neutral basis, applies across the board to all religious assembly, and for all purposes of assembly on its residential tiered level, whether religious or not, and was designed specifically to ensure that the regulations of assembly and places of worship within the Village of Chestnut Ridge foresee and accommodate the needs of any and all religions and assemblies which may choose Chestnut Ridge as their home; and

WHEREAS, additional public comment at the January 15, 2019 Public Hearing, the fourth public hearing on the proposed local law, questioned the lack of a public participation in the

process of adopting the proposed local law, and implied that if the Village had a statutorily adopted Comprehensive Master Plan in place which prohibited or limited establishing religious uses in residential neighborhoods, that such a plan would be “enforceable in a court of law”, and provide legal protection against lawsuits (presumably RLUIPA lawsuits) simply because all land use regulations would have to comply with the plan.^{vi}

WHEREAS, public comment at the January 15, 2019 Public Hearing also simply suggested (erroneously) that the Village’s zoning laws had never been subject to an RLUIPA challenge and therefore there was no need for the current amendments. In other words, by this comment, the resident essentially suggested that since the Village hasn’t been sued and lost on RLUIPA grounds was no need to change the current law.^{vii}

WHEREAS, an additional submission by Planit Planners, dated January 15, 2019, was presented into the record at the public hearing. [**The second written submission of Mr. Sorenson (“second Planit Report”) from the January 15, 2019 Public Hearing is attached hereto and made a part hereof as Exhibit “J”**]. The second Planit Report again failed to recognize that the current zoning code permits the establishment of houses or worship in the very same residential zoning districts as under the proposed local law (erroneously concluding that the proposed local law substantially departs from the existing code when the uses at issue are permitted under both codes), again fails to conduct any analysis of the potential incremental environmental impact of permitted development under the current code versus the proposed local law, again fails to recognize the language in the proposed code designed to minimize impacts of assembly uses (which provisions are absent from the existing code), and again fails to acknowledge that by law religious uses are deemed to be inherently beneficial in residential neighborhoods. In sum, the logical conclusion of the second Planit Report is that houses or worship do not belong in residential neighborhoods.

WHEREAS, as noted above, the Village Board finds that the deficiencies in both Planit Reports compel the Village Board to credit the reports and findings of the Village Planner, particularly the Village Planner’s analysis set forth in the expanded Part 3 of the LEAF (all SEQRA forms and the Village Planner’s analysis referenced therein are incorporated into this Resolution as if they were fully set forth herein), as well as those reflected in a technical Memo prepared by the Village Planner dated December 20, 2018, and to discount the conclusions in the Planit Reports, which appear to be based on inadequate knowledge of the provisions of current Village Code, a lack of any detailed empirical analysis of the true impact of development permitted under the existing code versus that possible under the proposed local law, and a striking lack of

understanding of the presumed beneficial relationship between a residential neighborhood and a place of worship under both Federal and New York State Law.^{viii}

WHEREAS, the Village Board has carefully considered all probative public comment^{ix} and reviewed, inter alia, the Village Planner's expanded EAF, comments by interested and involved agencies, all responding GML referral agencies, all technical memos from the Village's Planner (including three Memoranda dated December 20, 2018, included herein and made a part hereof by reference as if fully set forth herein), and the probative comments from the Village Planning Board; and

WHEREAS, on January 15, 2019, the Chestnut Ridge Village Board, acting as lead agency for SEQRA review, having found that it was in possession of all documentation reasonably necessary to determine the environmental impact of the project, and having reviewed Parts I, II III and the expanded Part III of the LEAF, with appendices, and considering public comment generated from the four public hearings, the responses from involved agencies and third party commentators (all of which are incorporated into this Resolution by reference as if they were fully reproduced herein), adopted a Negative Declaration under SEQRA determining that there were no significant adverse environmental impacts associated with implementing the proposed local law as compared to impacts that may result from applications made under the existing zoning code, and/or no substantial environmental impacts exist that could not be mitigated through the site specific SEQRA reviews to be undertaken when applications for approval are made under the proposed local law [**See Exhibit "I", 80-82**]; and

WHEREAS, the Village Board took and considered public comment with respect to the proposed local law at the four separate Public Hearings, and in addition to the documentation submitted by the Village Planner in support of the SEQRA review of the proposed local law, also considered and discussed submissions from its staff and consultants retained to review the local law; and

WHEREAS, the Village Board modified the proposed local law and incorporated changes to the final draft under consideration to reflect legitimate comments, concerns and input received from the public, outside referral agencies, and as a result of the SEQRA process undertaken by the Village Board (notably, while obviously not endorsing the proposed law, an attorney opposing the local law at the January 15th Public Hearing stated that the last draft of the proposed local law

“is a substantially watered down version” of the original draft - **See Exhibit “I” at page 6**) (the Village Board prefers to characterize “watered down” to mean modified to reflect comments from the public, referral agencies, and cogent comments from professional staff and those representing interested parties); and

WHEREAS, at its meeting of January 15, 2019, the Village Board closed the public hearing on the proposed local law regarding the amendments to the Chestnut Ridge Zoning Code pertaining to the establishment of places of assembly and places of worship in the Village of Chestnut Ridge (the Village Board provided for an additional 7 day window for the submission of additional written comments on the proposed local law following the close of the Public Hearing), and directed the Village Attorney to prepare a formal resolution for the approval of the proposed local law; and

WHEREAS, on January 16, 2019, the Village Planner submitted an additional revised draft of the proposed local law with minor modifications to ensure consistency with the comments of the Rockland County Planning Department, and to address comments made at the January 15, 2019 Public Hearing.

WHEREAS, the final public comment submitted within the open widow for submission after the January 15th Public Hearing was dated January 22, 2019, from a resident Jason Barragan, who refers to the “sudden influx of the Orthodox Jewish community” into Chestnut Ridge, states that “[i]n no way, shape or form am I anti-Semitic”, and concludes that it is “totally asinine” to consider a law that has “no restrictions or limits on how many houses of worship there can be in Chestnut Ridge”. Aside from failing to consider that (1) the current zoning law permits houses of worship in all residential zoning districts without numerical limitation, (2) that the lot size limitations in the proposed law do in fact render 35% of the residential lots in the Village unable to comply with the proposed local law, and (3) that the proposed local law introduces numerous Conditional Use/Special Permit provisions specifically designed to mitigate impacts in residential neighborhoods which simply do not exist under the current zoning code, the comments by Mr. Barragan sum up the opposition to the proposed local law repeated in several mass letters and publications circulated by citizens opposed to the proposed local law – a basic failure to recognize the requirement that a municipality must strive to accommodate legitimate assembly and religious practice of all denomination within its borders. Taken to their logical conclusion, the final comment submitted on the proposed local law, and the bulk of the comments opposing the proposed local law made at the Public Hearings by those opposing the proposed local law, would have the Village Board either ban places of religious assembly from

residential neighborhoods altogether, or impose arbitrary numerical limitations on a person's right to worship. The Village Board finds that position to be contrary to law. **[The final public comment submitted by a resident Jason Barragan is attached hereto and made a part hereof as Exhibit "K"].**

THEREFORE BE IT RESOLVED, at its meeting of February 21, 2019, the Village Board considered the said proposed resolution to approve Local Law #1 of 2019 as drafted by the Village Attorney, including the consideration of certain amendments and revisions thereto as offered by members of the Village Board, and whereupon the Village Board approved the proposed resolution as so amended ("Resolution No. 2019-12"), and Local Law #1 of 2019; and

BE IT FURTHER RESOLVED that the proposed local law shall be effective immediately upon filing with the Secretary of State.

ENDNOTES:

¹The Village Board was faced with Village residents expressing outright animus, and even discriminatory bias, against a particular religious group at the June 28th hearing, such as:

If this outrageous proposed law is put into effect we'll no longer have the Village of Chestnut Ridge (crowd applause) We'll have Kiryas Joel (crowd applause) There will be no staying in our homes, but a society of people dictated to by an overseer. I advise you to read the Handmaid's Tale. We must be rigid about having laws that benefit the people of Chestnut Ridge, not a group that is set up to be secretious (sic). Lest we forget, these institutions do not pay taxes (crowd applause) So there will be no revenue for Chestnut Ridge. These institutions do not contribute to the community. They only take and destroy (crowd applause) They've already destroyed the East Ramapo School District (crowd applause) Now they are trying to destroy the Village of Chestnut Ridge. We can not let them. A voice: Who is them? A voice: You, You.

See comments of Carole Goodman, June 28, 2018 Public Hearing, Exhibit "E", pp 56-57.

Numerous instances of elected officials and supporters of the law being shouted down and booed are reflected throughout the record of the June 28, 2018 Public Hearing; see pages 20-21, 41-43, 44, 46, 47, 55, 56 (taunting the

Mayor with jeers comparing him to Christopher St. Lawrence – a former Ramapo Supervisor who is currently serving prison time for felony convictions related to his time in office), 65-66, and 84.

ⁱⁱ The Village Board has been advised by the Village Attorney that the New York State Court of Appeals has consistently held that “facilities for religious and educational uses are, by their very nature, ‘clearly in furtherance of the public morals and general welfare’ “. Matter of Westchester Reform Temple v. Frederick Brown, et. al., 22 NY2d 488 (citing Matter of the Diocese of Rochester v. Planning Board, 1 NY2d 508). In other words, the law in New York State is that religious uses in residential neighborhoods are deemed beneficial to those residential neighborhoods. And furthermore, in Diocese of Rochester, the Court of Appeals held that it was improper to exclude a church from being built in a “built-up” residential neighborhood solely because of a potential for a “negative effect on property values”, the “loss of potential tax revenue”, “the decreased enjoyment of neighboring property”, and “potential traffic hazards”. It may be difficult for the Village Board and the public to accept the existing law on these issues, but the issues have long been litigated and are well settled.

ⁱⁱⁱVillage Board was again faced with several Village residents expressing outright animus, and discriminatory bias against a particular religious group at the July 24, 2018 hearing, such as:

We don’t even know who these people are who represent them. Well, we know (inaudible) Israel represents them and they’re willing to sue us if we don’t pass this law.

See comments of Ed Sheridan, July 24, 2018 Public Hearing, Exhibit “G”, pp 104.

For decades we have all been witness to the increasing problem the (sic) have fell into this Country due to the association to the overwhelming influx of a particular group nonsecular people who host communities -- into host such as the one here in Chestnut Ridge, New York. We have all been paying close attention to these unwanted changes. . . . These departures from healthy coexisting religious and secular communities throughout our Country are the result of domestic problems that our Federal, State and local Governments are fully aware of and understand, but some unfortunately, often kowtow to the votes when politicians jump like a dog for a treat when political and religious lobbyists dangle block vote or campaign contributions in their face. . . . I've lived here in Chestnut Ridge my whole life, 56 years, blissfully and content and never once thinking that my hometown would be subject to oppression and severely burdened by this subversive religious group intent on systematically replacing the host community where I live with their own kind . . . Do the oppressors not understand their selfish and arrogant behavior is an abomination bringing never before seen conflict to this community and others like it they wish to assimilate with? . . . They overwhelm the Federal Government, State Government, social welfare services, healthcare services and supplemental and fiscal assistance programs. . . . What god fearing culture would do these things with such arrogance and contempt of God to other human beings then blame the people they are victimizing for showing anger and animosity towards them knowing full well the oppressors bring the

response upon themselves, act like they are victims, then use every trick in the book and cry intolerance and Antisemite or haters or racist. . . . (crowd applause throughout).

See comments of Stephen Dykstra, July 24, 2018 Public Hearing, Exhibit "G", pp 120-127.

These people do not use the sidewalk on Sabbath days. They are in the middle of the road . . . while we are for religious freedom you should not be able to take away my rights of enjoying where I live. (crowd applause).

See comments of Cynthia Williams, July 24, 2018 Public Hearing, Exhibit "G", p. 140. Ms. Williams was inexplicably complaining about foot traffic in a roadway in the Village of Airmont, not Chestnut Ridge.

Some of the poorest communities in the Country are nearby here statistically, from Wikipedia you can look it up, Kiryas Joel if I didn't pronounce it correctly, parts of Monroe, yes, Kaser, places like that, that's a fear that we as people don't want our community to become that way. It's nothing against religion or Judaism or anything of that nature (crowd applause) A voice: How do you live with yourself Mr. Mayor. If you have ambition, you want the votes, you're gonna curry to the favors to the people who vote as a block. But one way we can do this, everybody, is if these things pass and you see our Mayor running for higher office lets remember this. Maybe nothing forgotten, okay? And whoever opposes him that's who we're gotta support.

See comments of Richard Paley, July 24, 2018 Public Hearing, Exhibit "G", p. 148-150.

It's about proposed laws that will eventually impose one set of religious beliefs and a way of life upon every resident in our Village whether they want it or not or agree with it or not

See comments of Lee March Grayson, July 24, 2018 Public Hearing, Exhibit "G", p. 163.

^{iv} The Village Board was once again faced with several Village residents expressing animus and discriminatory bias against a particular religious group at the November 20th Public hearing, and personal attacks against individual Board members such as:

It's apparent from I think almost from everyone here that there's what would appear to be a sellout to one particular group (crowd applause) We all know who it is is there a hidden agenda somewhere (crowd applause) . . .so you know, I understand Mr. Mayor was running for assembly, that didn't work out too well (crowd applause) Mainly because he didn't exactly do a good job with the community he represents . . . At any rate from what I know about that if I can community, the Ultra Orthodox religious community who I'm talking about, I understand that they are able to convert their single family houses to places of worship and it goes off the tax roles (sic) and that means everybody else has to pay for it. It's also true that the marriages are not recognized

by law because they're religious marriages which is a tremendous burden on everybody else because of the fact that we have to pay their welfare (crowd applause).

See comments of Richard Paley, November 20, 2018 Public Hearing, Exhibit "H", p. 17-19.

Welcome to Tombstone Alley: In memory of Mayor Presti's Burial of the Village of Chestnut Ridge. . . . Thank you Mayor for secretly meeting with religious groups and his constituents.

See comments of Norman Cohen, November 20, 2018 Public Hearing, Exhibit "H", p. 24.

I think you should know that they are referring to you as the new St. Lawrence . . . I look back to the founding fathers and I can tell you that they would've kicked over the poker table and been shooting by now, all right?

See comments of Rudy Dent, November 20, 2018 Public Hearing, Exhibit "H", p. 52-53.

^v "This is not for a residential neighborhood.

See comments of resident M. Dupee January 15, 2019 Public Hearing, Exhibit "I", p.45.

People who are not doing the right thing can be pulled out of the office and [those] who will do the right thing can be put in office (crowd applauds).

See comment of New Jersey resident Heather Frederico, January 15, 2019 Public Hearing, Exhibit "I", p.26.

See comment of a crowd member yelling out "We will sue you", January 15, 2019 Public Hearing, Exhibit "I", p.77.

^{vi}[T]he requirement that all land use regulations conform to the comprehensive master plan reveals the wisdom of the legislature in urging villages to adopt comprehensive plans with citizen comments and support. Said another way, adopting land regulations that conform to the comprehensive plan provides significant legal protection for such regulations. How is it possible that something that provides a blueprint for their future development and preservation of the community exists and is enforceable in a Court of Law to alleviate your legal concerns and you are ignoring this obvious solution?

See comments of resident Anthony Shaut January 15, 2019 Public Hearing, Exhibit "I", p.21.

^{vii} RLUIPA has not been adequately tested in our Village and so I do not see the need for the extent of the proposed amendments.

See comments of resident Jeff Wasserman, January 15, 2019 Public Hearing, Exhibit “I”, p.14. Note: The Village Board is currently in litigation on whether its current zoning law meets federal land use RLUIPA requirements, so no comment on the Village’s opinion as to the merits of that action, or lack thereof, is appropriate – beyond the fact that the resident’s comment on the lack of “testing” or litigation is erroneous. The Village Board is, however, quite cognizant of the fact that several municipalities in Rockland County (i.e, Pomona and Airmont) have essentially adopted the approach espoused by Mr. Wasserman – to effectively wait until they have lost several RLUIPA lawsuits, to the detriment of [all](#) residents exposed to paying astronomical awards of attorney’s fees through the tax levy, prior to evaluating their local zoning codes for compliance with state and federal law regarding religious land use. Given the petition for a text amendment submitted to the Village Board, which the Village Board processed under its applicable Village Code section, the Board finds Mr. Wasserman’s suggestion adverse to the best interests of the Village as a whole.

^{viii} For example, the second Planit Report of January 15, 2019 concludes “there is no evidence that the current Village Code improperly impedes the free practice of religion in any way”. No statement or analysis of how many places of assembly or houses of worship exist in the Village is provided, nor is any discussion of the current bulk requirements associated with the establishment of a place of assembly or house of worship under the current law set forth, nor are other relevant factors considered in the Planit Reports – its conclusions are based on no factual basis. Further, the “significant adverse environmental impact” which the Planit Reports conclude will “undoubtedly” result from the adoption of the proposed law are similarly based on no factual analysis – no similarly situated municipalities were studied, no thought to the regulatory scheme designed to mitigate impacts contained in the proposed law was considered – the Planit Reports simply state conclusions to support its client’s position rather than conclusions supported by empirical evidence or any factual basis.

^{ix} Generally speaking, the Village Board identified several trends in the public comment taken at the public hearings, which include but are not limited to:

- (1) General animus, some of which is identified in the endnotes to the Resolution, and which had little if anything to do with the substance of the local law in question.
- (2) A general complaint that the proposed local law was somehow developed “in secret”, without public comment. The Village Board found it ironic that members of the public (and paid professionals) consistently complained about a lack of opportunity to comment on the proposed local law at the Public Hearings specifically held to garner

the very public comments which individuals complained they were prevented from giving. It was apparent that this lack of appreciation that public hearings were held to seek public comment was fueled by the members of the public who spoke at every public hearing yet complained about how they got no chance to speak on the development of the local law. In fact, comments made at the public hearings that went to substantive issues in the local law, such as comments related to parking and accessory uses at places of assembly, were well taken and incorporated into the final version of the local law – a fact acknowledged by an attorney at the January 15, 2019 Public Hearing.

(3) A general lack of understanding that any application under the proposed local law would require a Conditional Use permit from the Planning Board (and further that the 5 acre minimum lot area requirement, and a continued requirement for a full review by all Village land use boards, and the Village Board for a Special Permit, would be maintained for the larger scale “Community Place of Worship” application under the proposed local law).

(4) Similarly, a lack of understanding that any application under the new law would require a site specific environmental analysis by the Planning Board – specific to the particular area, street or neighborhood where the place of assembly is proposed to be sited.

(5) A lack of understanding that the Village’s Zoning Code is the Village’s “Master Plan” for development in the Village. Although this was stated by one of the attorneys at the November 20, 2018 public hearing (on p.11), the public seemed unaware that there are essentially two types of “Master Plans” in New York. First, a statutorily adopted Comprehensive Master Plan, designed to be a planning document reflecting the vision of the future development in a municipality. Secondly, in the absence of a statutorily adopted Comprehensive Master Plan, a municipality’s Zoning Code constitutes its “Master Plan” (if it is a well-thought out regulatory scheme of use and dimensional requirements designed to promote orderly development and therefore protect the health, safety and welfare of a community). There seemed to be a perception by the public, no doubt fueled by misinformation disseminated by those opposing the proposed law, or disseminated in a simple attempt to delay any Board action on the proposed law, was that the adoption of a statutorily adopted Comprehensive Master Plan could somehow prevent houses of worship from being located in residential neighborhoods – the Village Board finds that type of ban on a constitutionally protected right is not the function or purpose of a Comprehensive Master Plan. The suggestion at the January 15th Public Hearing by a member of the public that the existence of a statutorily adopted Comprehensive Master Plan which limited assembly or religious uses in residential neighborhoods could trump first amendment rights, or somehow protect the Village from an RLUIPA lawsuit, or any kind of civil rights lawsuit, was ill-informed and simply not credible. [See Endnote vi. above].

(6) The perception that the proposed local law was developed in secret as a conspiracy to “sell out” the residents of the Village. Every local law starts out the same – someone comes to the Village and essentially says – “something is going on and there ought to be a law to deal with it”. The examples of this are endless (the Mayor explained the local law adoption process at the June 28, 2018 Public Hearing, Exhibit “E”, pp 79-84), but several recent examples are when residents of the Village came to the Village Board to ask for a Rental Registry Law, an Entity Disclosure Law, a law to regulate Parades in the Village, and a law to maintain two car garages for renovation projects in the Village. The public asked for those laws, which apply Village wide, they were written, public hearings were held, and the laws were adopted. The Village Code provides that a citizen can ask their legislators to amend the zoning code, or any code provision for that matter. Here, a certain group of residents asked for a change in the law to accommodate the way that they practice their religion. The Village Board did not adopt what the group asked for, but they did look at the state of the law in the Village, and undertook to draft

something that their professional consultants believe complies with state and federal law. Just like with the other laws referenced above, the law itself was drafted by Village's professionals and presented at public hearings to obtain public input. Here, there were four public hearings on the proposed local law spanning over a period of 7 months, with those public hearings starting fully four months after the first draft of the law was made public. The Village Board expected public comment on the law, but had no control over residents (and over non-residents and paid professionals) who decided to devote more time to complaining about process, or just complaining in general, than time spent giving comments on the substance of the proposed law. Clearly the law was publicized enough that literally thousands of public comments were submitted, objectors to the law retained and submitted comments from a professional planner, and objectors to the law had no less than three separate attorneys appear at the public hearings to speak out against the law. This factor is tied in to the last item:

(7) There was a fundamental disagreement on the legal requirement imposed on municipalities to allow and accommodate, through neutral laws applying to all individuals and groups, the legitimate practice of assembly and religion within a community. This was a deep disagreement, and there were some comments (even from professionals apparently retained to give professional opinions) which very clearly stated that assemblies or houses of worship should simply not be permitted in residential neighborhoods. The Village Board was advised by its professionals that the opposite is true – that the law, particularly New York State law, provides that religious assemblies are deemed to be beneficial to residential neighborhoods and are presumed under the law not to impair or otherwise negatively affect the character of residential neighborhoods.

Reasonable people can differ in opinions on whether the proposed local law is right or just, or whether the current zoning law even envisioned the establishment of places of assembly or worship in homes (as opposed to more traditional free-standing church, mosque, or synagogue worship spaces), but the state and federal laws governing religious land use are what they are, and the Village is bound by those laws.

A good indicator of the state of religious land use law is the current Village zoning code – it allows houses of worship in the very same residential zoning districts as those where they are permitted in the proposed local law. The very same residential districts. The proposed local law contains, in a neutral regulatory fashion, many more protections designed to lessen the impact of such uses already permitted in residential zoning districts. The Village Board is currently involved in litigation on whether its current local law meets federal land use RLUIPA requirements, so no comment on the Village's opinion as to those issues is would be appropriate at this time.

The Village Board members stated over and over again at the public hearings (for example pp 58 – 81 at the January 15, 2019 Public Hearing) that the proposed local law was an attempt, just an attempt, to recognize that the demographic make-up of the Village is rapidly changing, that property owners are and will continue to establish and seek approval for facially neutral assembly and religious uses they are entitled to under our current law (and under state law, and also under RLUIPA), and that the Village Board is trying to seek some type of balance of everyone's rights. Perhaps the proposed law is not perfect to achieve its stated goals. Will it "work"?, that remains to be seen. But it is a good faith effort to try to balance the rights of everyone involved, and to protect all of the residents of the Village, yes, all of the residents of the Village from unnecessary conflict and legal battles. It does not appear that those supporting or opposing the proposed local law are happy with the final product, so perhaps the proposed legislative solution constitutes a well considered plan to protect the health safety and welfare of all citizens. Not every resident of Chestnut Ridge either supports or opposes the proposed law, but ***all*** residents will pay the price of a failure to have all Village laws adopted for neutral purposes, to apply to all residents, and balance the rights of all the citizenry in an equal and evenhanded manner. The Village Board stated

as much in the face of criticism from all sides of the issues discussed at the public hearings - that it was simply trying to balance the rights of all involved in good faith.