

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ***th day of ***, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. 8 for the year 2022 amending Chapter 98 of the Village Code entitled "Zoning" to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District.

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

__ Mayor Lauri Taylor
__ Trustee Daniel Peters
__ Trustee John Burweger
__ Trustee Gerald Locascio
__ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. 8 for the year 2022 amending Chapter 98 of the Village Code entitled "Zoning" to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District.

Purpose

The purpose of this Local Law No 8 for the year 2022 is to amend Chapter 98 of the Village Code entitled "Zoning" ("Chapter 98") to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District from 4 floors to 3.5 floors.

Background

WHEREAS, In 1994, the Village adopted a comprehensive plan pursuant to NY Village Law 7-722 by enacting local law no 4 for the year 1994 (the "Adopted Plan").

WHEREAS, One of the key objectives of the Adopted Plan is to reinforce and revitalize the Village Center as the central business district for the Village, the Town of Pawling and the Southeast Sector of Dutchess County with the downtown being the retail center for the Village;

WHEREAS, the Adopted Plan advocates that new buildings in the B-1 should be architecturally compatible with the best of the village center model, including the Dutcher House and some of the modest, older two story retail buildings on Main Street;

WHEREAS, as one means of achieving the above described objective of architectural compatibility, the Adopted Plan advocates that the Village Zoning Law limit the height of Type I Shopfront Buildings in the B-1 Zone ("Type I Buildings") to 3.5 floors;

WHEREAS, Local Law No 1 for the year 2018 amended the Village Zoning Law to increase the maximum height of Type I Buildings from 3.5 to 4 floors;

WHEREAS, the Board finds that the objectives of the Adopted Plan will be best served by undoing such change in height and reverting to 3.5 floors as a maximum height for Type I Buildings; ;

NOW, THEREFORE,

1. The Urban Regulations contained in Schedule B of Chapter 98 of the Village Zoning Law are amended to provide that the maximum height of Type I - Shopfront/Mixed Use Buildings is 3.5 floors. Any provision to the contrary in Local Law No 1 of 2018 is repealed.
2. In accord with Municipal Home Rule Law §27(3), this local law shall be effective as of the date that it is filed with the Secretary of State.

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Village of Pawling Local Law No. 8 for the year 2022 amending Chapter 98 of the Village Code entitled "Zoning" to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District.

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on *** **, 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. 8 for the year 2022 amending Chapter 98 of the Village Code entitled "Zoning" to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
*** ***, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

		<u>Aye</u>	<u>Nay</u>
<u>Abstain</u>			
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Tom Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on *** ***, 2022.

Date: *** ***, 2022

Jennifer Osborn, Village Clerk

Dutchess County Department of Planning and Development

Fax info Only	To	Date	#pgs
	Co./Dept.	From	
	Fax #	Phone #	

239 Planning/Zoning Referral - Exemption Communities

Municipality: **Village of Pawling**

Referring Agency: **Municipal Board**

Tax Parcel Number(s):

Project Name: **Local Law 8 for 2022 amending certain provisions of the Village of Pawling Zoning Law**

Applicant: **Village of Pawling**

Address of Property:

Please Fill in this section

<p>Exempt Actions:* 239 Review is NOT Required</p> <ul style="list-style-type: none"> ● Administrative Amendments (fees, procedures, penalties, etc.) ● Special Permits for residential uses (accessory apts, home occupations, etc.) ● Use Variances for residential uses ● Area Variances for residential uses ● Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals <p>No Authority to review these Actions</p> <ul style="list-style-type: none"> ● Subdivisions / Lot Line Adjustments ● Interpretations <p><input type="checkbox"/> Exempt Action submitted for informal review</p>	<p>Actions Requiring 239 Review</p> <ul style="list-style-type: none"> <input type="checkbox"/> Comprehensive/Master Plans <input checked="" type="checkbox"/> Zoning Amendments (standards, uses, definitions, district regulations, etc.) <input type="checkbox"/> Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.) <input type="checkbox"/> Rezoning involving all map changes <input type="checkbox"/> Architectural Review <input type="checkbox"/> Site Plans (all) <input type="checkbox"/> Special Permits for all non-residential uses <input type="checkbox"/> Use Variances for all non-residential uses <input type="checkbox"/> Area Variances for all non-residential uses <input type="checkbox"/> Other (Describe): 	<p>Parcels within 500 feet of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> State Road: <input type="checkbox"/> County Road: <input type="checkbox"/> State Property (with recreation area or public building) <input type="checkbox"/> County Property (with recreation area or public building) <input checked="" type="checkbox"/> Municipal Boundary <input type="checkbox"/> Farm operation in an Agricultural District
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Date Response Requested: **8/1/2022**

Entered By: **Cocozza, Jennifer**

These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.

For County Office Use Only

Response From Dutchess County Department of Planning and Development

<p>No Comments:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Matter of Local Concern <input type="checkbox"/> No Jurisdiction <input type="checkbox"/> No Authority <input type="checkbox"/> Withdrawn <input type="checkbox"/> Incomplete - municipality must resubmit to County <input type="checkbox"/> Exempt from 239 Review <input type="checkbox"/> None 	<p>Comments Attached:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Local Concern with Comments <input type="checkbox"/> Conditional <input type="checkbox"/> Denial <input type="checkbox"/> Incomplete with Comments- municipality must resubmit to County <input type="checkbox"/> Informal Comments Only (Action Exempt from 239 Review)
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Date Submitted: **7/13/2022**

Date Received: **7/13/2022**

Date Requested: **8/1/2022**

Date Required: **8/11/2022**

Date Transmitted: **7/21/2022**

Notes:

Major Project

Referral #: **ZR22-198**

Also mailed hard copy

Reviewer: **Jennifer F. Cocozza**

Digitally signed by Jennifer F. Cocozza
DN: cn=Jennifer F. Cocozza, c=US, o=Dutchess County, ou=Planning and Development, email=jcocozza@dutchessny.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2022.07.21 14:17:03-0400
Foxit PDF Editor Version: 11.0.3

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of August, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting,”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting

**Chapter 58-A
Peddling and Soliciting**

**Article I
General Provisions**

§ 58-1. Purpose.

The purpose of this Chapter shall be to improve and promote the health, safety and general welfare of the community, and to preserve and protect the property of the Village and its inhabitants, by appropriate regulation of peddling and soliciting.

§ 58-2. Definitions.

As used in this Chapter the following terms shall have the meanings indicated (irrespective of whether such term begins with a capital letter):

APPLICANT - Any natural person who applies for and/or has been issued a permit.

APPROVING OFFICIAL - the Mayor or, as may be designated by the Mayor from time to time, the Clerk, another Village Officer or the Board.¹

BOARD - The Board of Trustees of the Village.

CHAPTER - This Chapter 58-A of the Village Code.

CLERK - The Village Clerk for the Village.

DISABLED VETERAN - Any honorably discharged member of the armed forces of the United States who (1) was honorably discharged from such service, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who is physically disabled as a result of injuries received while in the service of said armed forces.

DUTCHESS COUNTY VETERAN'S LICENSE - A license issued by the Dutchess County Clerk to a former member of the armed forces who has qualified for such license pursuant to NY General Business Law § 32.

ENTITY APPLICANT - as defined § 58-4.C.

ENTITY REPRESENTATIVE - as defined in § 58-4.C.

EXEMPT ORGANIZATION - An organization which is exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, including any such organization which has received such exemption based on it being organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes and meeting other applicable criteria under the Internal Revenue Code.

EXEMPT SOLICITING – Any soliciting by any individual or entity upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of an exempt organization;

¹ Under N.Y. Village Law § 4-400 (1)(m) it is the responsibility of the mayor to issue all licenses and for such purpose shall be the "licensing officer" unless he designates another village officer which designation shall be filed with the village clerk. See, also 1983 N.Y. Op. Atty. Gen. (Inf.) 1116 (N.Y.A.G.), 1983 WL 167417(the mayor can designate the board of trustees as the licensing officers to issue certain permits).

- (iii) proselytizing on behalf of an exempt organization which is organized and operated exclusively for religious purposes;
- (iv) participating in (including the publishing or distributing of written materials) any political campaign on behalf of (or in opposition to) any candidate for public office or with respect to any issue which may involve a vote or other decision making by any federal, state or local government entity or agency;

provided, however, exempt soliciting shall not include (i) peddling on behalf of an exempt organization or (ii) the use of a public area for any of the activities described in sections (i) through (iv) of this definition, if such peddling or use of public area, as the case may be, described in includes the location and/ or use upon such public area of any fixture.

FIXTURE-any booth, tent, stand, stall, kiosk, enclosure, tent, easel, tripod, table, chair, mount, parked or stationary vehicle or cart, placard, fixed signage, musical instruments, microphones, speakers or other amplification equipment;

GAZEBO – the gazebo located on the Village Green.

MAYOR - The Mayor of the Village.

P&S PERMIT – A permit issued for Peddling and Soliciting as described in §58-3

PEDDLER - Any person who engages in Peddling.

PEDDLING - The selling or offering for sale of any goods, wares or merchandise for immediate delivery, which the person selling or offering for sale carries with him in traveling or has in his possession or control, upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village.

PERMIT - A permit issued pursuant to this Chapter.

PERMIT TERM - The time period beginning on the date a permit issued pursuant to this Chapter and ending on the expiration date or earlier revocation of such permit, as the case may be.

PERSON - Any natural person, association, partnership, firm or corporation.

PUBLIC AREA -

A. Any street, avenue, sidewalk, alley, lane, park or other areas herein or hereafter designated as a public area or area open to the public by the Board of Trustees acting by resolution or local law.

B. Without limiting the generality of paragraph A of this definition, public areas shall be deemed to include without limitation:

- (i) the Village Green;

- (ii) the War Memorial;
- (iii) all entryways to the Village from Route 22 and Route 55;
- (iv) the Metro North parking lot; and
- (v) the road leading from Main Street to the east side of the Village Hall and the associated parking lot.

SIDEWALK - Any area or way set aside or open to the general public for pedestrian traffic, whether or not it is paved.

SOLICITING - Any of the following activities:

A. The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village;

B. Any soliciting by any person upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of any person other than an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of any person other than an exempt organization.

C. For the avoidance of doubt, any provision of this local law which regulates, references or pertains to “soliciting or “exempt soliciting” shall, as the case may be, also be deemed to regulate, reference or pertain to “solicitation” or “exempt solicitation”, as the case may be, and vice versa.

STREET - Any public street, roadway or highway within the Village of Pawling.

TEMPORARY RESTRICTED AREA - As defined in ~~§ 58-5.F(2)~~§-58-6.F(2).

VILLAGE - The Village of Pawling.

VILLAGE GREEN- the Village Green located adjacent to the railroad tracks and Charles Colman Boulevard;

WAR MEMORIAL AREA – the war memorial located at the south end of the Village Green, including the surrounding brick paved area and benches;

§ 58-3. Permit Required for Soliciting and Peddling

A. Except as otherwise expressly provided herein, no person shall engage in Soliciting or

Peddling within the Village without procuring a P&S permit from the Village Clerk.

B. Notwithstanding anything contained herein to the contrary, a P&S permit shall not be required for the following:

(1) Peddling or Soliciting which is conducted in any public area without the use of any vehicle other than a hand driven vehicle by a Disabled Veteran who is the holder of a current Dutchess County Veteran's License;

(2) Peddling in a fixed location by any individual or entity while participating as an approved vendor in a farmer's market organized and operated by an exempt organization which has received approval from an Approving Official to operate such farmer's market within the Village;

(3) any individual under the age of eighteen (18) years old engaged in Peddling exclusively on behalf of an exempt organization so long as such peddling by an exempt organization within the Village utilizing one or more such individuals does not occur more than seven (7) days in any given calendar year;

(4) any individual under the age of eighteen (18) years old engaged in Peddling exclusively as part of a public or private school club or activity, so long as such peddling for any given club or activity does not occur more than seven (7) days in any given calendar year;

(5) any exempt soliciting.

§ 58-4. Application for P&S Permit.

A. No P&S Permit shall be issued until an application has first been filed with the Village Clerk by the person seeking the same.

B. The application for a P&S permit shall require the applicant to set forth his name, address, his sex, his age; the type or types of article, device, subscription, contribution, service or contract which he desires to sell or for which he desires to solicit within the Village; the name and address of the applicant's employer or sponsor, if any; the length of time for which he wishes the P&S permit to be issued, not exceeding sixty (60) days; the type of vehicle he uses, if any, and its registration number; a description of any fixtures to be used by the applicant; two full faced photographs of the applicant taken within the thirty (30) day period immediately preceding the date of the application and measuring at least 2 x 2 inches; if the application is for a license to handle food in any form, a valid permit issued by the Dutchess County Health Department indicating compliance with the provisions of the Dutchess County Public Health Regulations; if the application involves the use of a vehicle, proof that the applicant holds a valid New York State driver's license; proof that the applicant holds a New York State sales tax certificate of authority, including the applicant's sales tax identification number.

C. If the applicant is not a natural person ("Entity Applicant"), then the applicant must designate a single individual who will be entitled to utilize the permit during the Permit term ("Entity Representative") and such Entity Representative and Entity Applicant shall be required to meet all requirements and conditions imposed upon an individual applicant hereunder in connection with

application for and utilization of a permit. Such permit shall be issued in the name of both the Entity Representative and the Entity Applicant and the Entity Representative and Entity Applicant shall be jointly and severally liable to the Village for any costs, claims, damages, suits liabilities and expenses, including reasonable attorneys fees, for which an applicant may be responsible hereunder.

D. Each applicant for a P&S Permit must obtain and provide the Village with a current suppressed criminal history record by submitting the applicant's fingerprints to the Division of Criminal Justice Services (DCJS) in the form and manner as prescribed by DCJS. See, <https://www.criminaljustice.ny.gov/ojis/recordreview.htm>

E. Such application shall be referred to the Approving Official for review and approval, approval with conditions or disapproval.

F. The Approving Official shall review the criminal history record information (CHRI) disseminated by DCJS in connection with the applicant's criminal background and investigation. An applicant shall be disqualified from being issued a P&S permit if the applicant has been convicted of one or more criminal offenses and the Approving Official determines, that either: (1) there is a direct relationship between one or more of the previous criminal offenses and the issuance of the P&S permit or (2) the issuance of the P&S Permit would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. In making such determination the Approving Official shall consider the factors specified in NY Corrections Law §753.

G. An applicant who is not disqualified pursuant to this § 58-4, and who meets all other terms and conditions specified in this Chapter, shall be issued a P&S permit.

§ 58-5. Fees; Bond.

C. Except as expressly provided herein, no P&S permit shall be issued under this Chapter unless and until the applicant has complied with each of the following conditions:

(1) The applicant has paid a fee to the Village in the amount of \$200.

(2) The applicant has provided a bond approved by the Board in form and surety in the amount of \$5,000, to secure the Village from and against any and all losses, costs, claims, suits, damages, liabilities and expenses, including reasonable attorney's fees arising from the applicant's activities in connection with the P&S permit. This provision shall not be deemed to limit the liability of an applicant to the Village or any third party pursuant to any provision of this Chapter, at law or in equity.

D. The Board shall have the right to amend or alter any one or more of the following from time to time by resolution of the Board:

(1) The amount of fees payable by applicants hereunder;

(2) The amount or type of the bond required to be posted by applicant;

(3) Any action taken or determination made by a Approving Official pursuant to this Chapter 58-A;

(4) The time period that a P&S permit is in effect;

(5) The location and days and hours of operation of any applicant holding a P&S permit or of any other Peddling, Soliciting or exempt soliciting.

E. Notwithstanding the foregoing to the contrary, an applicant who is a former member of the armed services who at the time of applicant for the P&S permit is qualified for and holds a current Dutchess County Veteran's License shall not be required to pay the fee or post the bond otherwise required under this § 58-5.

Permit Conditions and Restrictions on Peddling, Soliciting and Exempt Soliciting.

A. A P&S permit issued hereunder shall only be valid all days between 9:00 a.m. and sundown from the date of issuance for a period of sixty (60) days thereafter.

B. A P&S permit shall apply only to a single applicant and such P&S permit shall not be transferable to any other person.

C. Each applicant who has been issued a P&S permit shall at all times while engaged in Soliciting and Peddling within the Village, carry the P&S permit upon his person and shall exhibit the same upon request to all persons solicited and to any sheriff or other police officer then located within the Village.

D. No applicant or other person shall engage in exempt soliciting, any other soliciting or any peddling in the Village in a manner that would violate any parking or standing laws or regulations or that would create traffic congestion or otherwise interfere with the public access to, safe passage through, or use of any Village sidewalk or street.

E. No applicant or other person shall use any fixtures for exempt soliciting or for any other soliciting or peddling unless such fixture is listed on the applicant's P&S permit application and approved by the Village at the time of issuance of the P&S permit; :

F. Unless the Village otherwise consents in writing, no applicant or other person shall engage in exempt soliciting, other Soliciting or Peddling, any musical or other public performance or any assembly of more than six (6) persons:

(1) Within ten (10) feet of any entryway to a business without the written consent of the owner of the applicable business, within ten (10) feet of any entryway to a residential building other than a single family residence without the written consent of the owner of the applicable residence or within fifty (50) feet of any entryway to any single family residence without the written consent of the owner of such residence; provided, however, that this provision shall not apply to door to door peddling, door to door soliciting or door to door exempt soliciting which is otherwise permitted hereunder;

(2) Within fifteen (15) feet of the nearest boundary of any Temporary Restricted Area. "Temporary Restricted Area" means any public area within the Village which (i) in square feet is no larger than the square footage of the Village Green and (ii) is being used for an event or activity

for which a UPF Permit has been issued pursuant to ~~§ 59-10~~ **Error! Reference source not found.** of Chapter 59 of the Village Code entitled “Parades, Public Assemblies and Use of Public Areas”

(3) On or within ten (10) feet of any of the following: (i) the war memorial area; (ii) the chamber of commerce building on Charles Colman Boulevard and (iii) the gazebo;

G. No person engaged in Soliciting or Peddling shall:

(1) make noise through the use of any loudspeaker, horn or any other amplification device or engage in any other activity which disturbs the peace;

(2) enter private property or place of business in the Village for the purpose of Peddling or Soliciting after the owner or occupant thereof shall have requested the applicant to leave, or if the residence or place of business is displaying a sign stating “no soliciting” or words of similar effect.

§ 58-6. Discrimination Prohibited.

The Approving Official shall not discriminate in granting, denying, revocation or suspending any permit under this Chapter based on speech content, political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

§ 58-7. Village Clerk records.

The Village Clerk shall keep a record listing the names and numbers of persons to whom permits have been issued, the date of issuance thereof and the expiration date of each permit.

§ 58-8. Appeal

C. An applicant who is denied the issuance of a permit hereunder by an Approving Official or whose permit is revoked or suspended by an Approving Official shall have the right to appeal such denial to the Board at any regular meeting of the Board following such denial, revocation or suspension as the case may be. Such right of appeal shall expire if not exercised within 45 days after such denial, revocation or suspension, as the case may be. In the event of a timely appeal, the Board shall issue a decision to the applicant within fifteen (15) days which either upholds, overturns or modifies such denial, revocation or suspension

§ 58-9. Revocation and Suspension, Cancellation. .

A. Any permit issued under this Chapter may be suspended or revoked by any Authorized Official for “Good Cause”. Each of the following shall be deemed “Good Cause”:

(1) The applicant violates one or more terms and conditions applicable to the permit;

(2) The applicant has committed one or more crimes prior to or during the permit Term and the Board finds that: (i) there is a direct relationship between one or more such crimes and the activities engaged in by the applicant pursuant to the permit or (ii) the applicant's activities related to the permit would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public;

(3) The applicant engaged in fraud or bribery in securing the permit;

(4) The applicant is determined to have made one or more false statements as to a material matter in any application for a permit or other statement required by or pursuant to this Chapter.

C. Any permit issued under this Chapter may be cancelled based on events occurring after issuance of the permit which create the risk of damage to property or injury to persons, including without limitation inclement weather, pandemic or other exigent circumstances.

§ 58-10. Penalties; Severability.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation, punishable by a fine of at least \$500, but not exceeding \$2,000, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.

§ 58-11. Invalidity, Severability.

In the event that any provision(s) of this Chapter shall be deemed invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to such provision(s) and the other provisions of this Chapter shall remain in full force and effect. Further, in the event that a court determines that any time, place and manner restriction or requirement is deemed invalid, the court shall be authorized to reduce such restriction or requirement, as the case may be, if doing so would render such provision valid.

§ 58-12. Repeal of Chapter 58 and Local Law No. 6 for the year 2022.

A. Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" is hereby repealed in its entirety.

B. Local Law No. 6 for the year 2022 is hereby repealed in its entirety.

§ 58-13. When effective.

A. In accord with Municipal Home Rule Law §27(3), this Chapter shall be effective as of the date that it is filed with the Secretary of State.

B. Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to

hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o’clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____ 2022, at 7 o’clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting”

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
August ____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Thomas Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: August ____, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of August, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

**Chapter 59
Parades, Public Assemblies and Use of Public Facilities**

**Article I
General Provisions**

59.1 Purpose.

The purpose of this Chapter shall be to protect the rights of all citizens under the 1st Amendment to the U.S. Constitution,¹ to improve and promote the health, safety and general welfare of the community, and to preserve and protect the property of the Village and its inhabitants, by appropriate regulation of parades, public assemblies and use of public areas in the Village.

59.2 Definitions.

As used in this Chapter the following terms shall have the meanings indicated (irrespective of whether such term begins with a capital letter):

APPLICANT - Any natural person who applies for and/or has been issued a permit.

¹ The U.S. Supreme Court has approved reasonable nondiscriminatory regulation by governmental authority that preserves peace, order and tranquility without deprivation of the First Amendment guarantees of free speech, press and the exercise of religion.” See *Urlaub v. Incorporated Village of Bellport*, 498 F.Supp.2d 614, 618 (E.D.N.Y.,2007)

ASSEMBLY PERMIT – as defined in §59.3

BOARD - The Board of Trustees of the Village.

CHAPTER - This Chapter 59 of the Village Code.

CLERK - The Village Clerk for the Village.

EXEMPT ORGANIZATION - An organization which is exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, including any such organization which has received such exemption based on it being organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes and meeting other applicable criteria under the Internal Revenue Code.

EXEMPT SOLICITING – Any soliciting by any individual or entity upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of an exempt organization;
- (iii) proselytizing on behalf of an exempt organization which is organized and operated exclusively for religious purposes;
- (iv) participating in (including the publishing or distributing of written materials) any political campaign on behalf of (or in opposition to) any candidate for public office or with respect to any issue which may involve a vote or other decision making by any federal, state or local government entity or agency;

provided, however, exempt soliciting shall not include (i) peddling on behalf of an exempt organization or (ii) the use of a public area for any of the activities described in sections (i) through (iv) of this definition if such activities include the location and/ or use upon such public area of any fixture.

FIXTURE-any booth, tent, stand, stall, kiosk, enclosure, tent, easel, tripod, table, chair, mount, parked or stationary vehicle or cart, placard, fixed signage, musical instruments, microphones, speakers or other amplification equipment;

GAZEBO – the gazebo located on the Village Green.

MAYOR - The Mayor of the Village.

OTHER ASSEMBLY- A gathering of at ten (10) or more persons in a public area.

PARADE – as defined in § 59.3

PERMIT - A permit issued pursuant to this Chapter.

PERMIT TERM - The time period beginning on the date a permit issued pursuant to this Chapter and ending on the expiration date or earlier revocation of such permit, as the case may be.

PERSON - Any natural person, association, partnership, firm or corporation.

PUBLIC AREA –

A. Any street, avenue, sidewalk, alley, lane, park or other areas herein or hereafter designated as a public area or area open to the public by the Board of Trustees acting by resolution or local law.

B. Without limiting the generality of paragraph A of this definition, public areas shall be deemed to include without limitation:

- (i) the Village Green;
- (ii) the War Memorial;
- (iii) all entryways to the Village from Route 22 and Route 55;
- (iv) the Metro North parking lot; and
- (v) the road leading from Main Street to the east side of the Village Hall and the associated parking lot.

PUBLIC ASSEMBLY – as defined in § 59.3

SIDEWALK - Any area or way set aside or open to the general public for pedestrian traffic, whether or not it is paved.

SOLICITING - Any of the following activities:

A. The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery upon any of the streets, roads or highways or from house to house, building to building or lot to lot within the Village;

B. Any soliciting by any person upon public or private property in the Village for the purpose of any one or more of the following:

- (i) soliciting contributions or support for the purposes and/or activities of any person other than an exempt organization;
- (ii) distributing pamphlets and/or other written materials of any kind on behalf of any person other than an exempt organization.

C. For the avoidance of doubt, any provision of this local law which regulates, references or pertains to “soliciting or “exempt soliciting” shall, as the case may be, also be deemed to regulate, reference or pertain to “solicitation” or “exempt solicitation”, as the case may be, and vice versa.

STREET - Any public street, roadway or highway within the Village of Pawling.

UPF Permit – as defined in § 59.6

VILLAGE - The Village of Pawling.

VILLAGE GREEN- the Village Green located adjacent to the railroad tracks and Charles Colman Boulevard;

WAR MEMORIAL AREA – the war memorial located at the south end of the Village Green, including the surrounding brick paved area and benches;

59.3 Permit Required for Parades and Public Assembly

A. Except as otherwise expressly provided herein, no person shall hold or engage in a parade or public assembly without procuring an assembly permit (“Assembly Permit”) from the Village.

PARADE – means any march, procession or other similar activity involving at least 25 persons and consisting of persons, animals or vehicles, or a combination thereof, having a common purpose, design, destination or goal, upon any public street, sidewalk, park, alley or other public place, which does not comply with normal and usual traffic and/or pedestrian regulation or control.

PUBLIC ASSEMBLY – A gathering of at least 25 persons in a public area which is reasonably anticipated to obstruct the normal flow of traffic upon a village street or otherwise significantly interfere with the use of such public area by the general public.

59.4 Application for Assembly Permit

A. Application. A person seeking the issuance of an Assembly Permit under this chapter shall file with the Village Clerk an application with the Village Clerk not less than fifteen (15) days nor more than six months before the date upon which the parade and/or public assembly is proposed to be conducted; provided, however, however, the Board where the Mayor determines good cause is shown therefor, may consider an application which is filed less than fifteen (15) days before such parade or public assembly is proposed to be conducted. Good cause may include, but not be limited to, spontaneous parades or public assemblies in response to recent events, without consideration given to the message to be disseminated.

B. Contents. The application for an Assembly Permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct the parade or public assembly and who will be responsible for any communications with the Village with respect to such Assembly Permit;

(2) If the parade or public assembly is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization,

and of the authorized and responsible heads of the organization;

- (3) The date when the parade or public assembly is to be conducted;
- (4) The proposed route to be traveled, the starting point and the termination point;
- (5) The approximate number of persons who, and the animals and vehicles which, will constitute the parade or public assembly; including a description of any sound amplification equipment to be used;
- (6) The starting and ending times for the parade or public assembly;
- (7) The location of any assembly and disbanding areas for the parade or public assembly;
- (8) The approximate number of spectators;
- (9) A description of any public areas proposed to be utilized;
- (10) Whether or not alcoholic beverages will be served or consumed in any public area; and
- (11) If the applicant or associated organization maintains a liability policy in its customary and usual course of business, proof of such insurance in the form of a certificate of insurance naming the Village as an additional insured.

C. Action on application. The Board shall act upon the application for an Assembly Permit at its next regular meeting which is scheduled to be held after the 5th day following the filing of such application;

D. The Board shall issue an Assembly Permit when, from a consideration of the application and from any other information as may otherwise be obtained, the Board finds that:

- (1) the conduct of the parade or public assembly, as the case may be will not substantially interrupt the safe and orderly movement of other traffic, both vehicular and pedestrian, contiguous to its route or areas of assembly, as the case may be, or, if the activity will substantially interfere with such traffic, there are available at the time of the proposed activity sufficient resources to mitigate the disruption so as to avoid material harm to persons or damage or destruction of property;
- (2) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection and ambulance service within the Village;
- (3) The manner in which the parade or public assembly will be conducted is not reasonably likely to cause injury to persons or property;
- (4) The conduct of the parade or public assembly will not interfere or conflict with any other parade, public assembly or use of public facilities for which an Assembly Permit or UPF

permit has been issued.

E. Contents of the parade or public Assembly Permit. Each Assembly Permit shall state the following information:

- (1) The starting and ending times for the parade or public assembly;
- (2) What portions of the streets to be traversed or public areas may be occupied by the parade or public assembly;
- (3) The assembly areas and the disbanding areas;
- (4) Any other information or conditions that the Board shall find reasonably necessary for the protection of persons or property.

59.5 Denial of Permit.

If an Assembly Permit is denied, the Board shall give notice of such denial to the applicant. Such notice of denial shall include the reasons for such denial and, if applicable, shall propose an alternative time and place within the Village for such parade or public assembly.

59.6 Permit Required for Certain Use of Public Areas.

A. A Use of Public Facilities permit ("UPF permit") shall be required for any of the following:

- (1) use of the gazebo, chamber of commerce building or war memorial area for any public assembly, other assembly, exempt soliciting or any musical or other public performance;
- (2) use of any public area for exempt soliciting involving the use of a fixture;

B. Application for UPF Permit. A person seeking the issuance of a UPF permit shall file with the Village Clerk an application not less than sixty (60) days nor more than six months before the date upon which the applicable use is proposed to be conducted. Such time frames may be modified for a given application at the discretion of the Board if the Board determines that good cause is shown to warrant a modification of such time frame.

C. Contents. The application for a UPF permit shall include:

- (1) the name, address, telephone number and email of the applicant;
- (2) if the use is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of the organization;
- (3) the public purpose(s) of the proposed use;
- (4) whether the Applicant is an exempt organization;

- (5) the date and times when use of public facilities is to be conducted;
- (6) the public area proposed to be used;
- (7) any fixtures to be used;
- (8) whether amplified sound will be used;
- (9) Whether there will be any lighting or other illumination;
- (10) whether it is proposed that electric power be provided;
- (11) any provisions to be made for sanitary facilities;
- (12) provisions to be made to handle litter and refuse;
- (13) the approximate number of persons expected in connection with such use, including, as the case may be, vendors, customers, performers, speakers and spectators;
- (14) whether or not alcoholic beverages will be served or consumed in connection with such use;
- (15) Whether or not food will be served;
- (16) An insurance certificate showing that the applicant is covered by comprehensive general liability insurance with such coverage limits and policy terms as are required by the Board and naming the Village as an additional insured. If alcoholic beverages are to be served the applicant shall also furnish an insurance certificate showing coverage for host liquor liability;
- (17) Any other permits required from other state or county agencies;
- (18) any and all such additional information as the Board deems reasonably necessary for the protection of persons and property;

D. The Board shall have the right to adopt and amend from time to time policies and procedures reasonably requirement to implement this Chapter, including without limitation a form of application, specification of any insurance requirements and form of indemnification to be signed by the applicant.

E. The Board shall issue a UPF assembly permit when, from a consideration of the application and from any other information as may otherwise be obtained, the Board finds that:

1. The issuance of such UPF permit will promote a public purpose;
2. the use will not interfere or conflict with any other parade, public assembly or use of public area for which (i) a permit has been issued or (ii) is expected to be issued to

another applicant because of such other applicant's past use of the given public area during the requested date and time;

3. There is no reasonable cause to find that such use will substantially interrupt the safe and orderly movement of traffic, both vehicular and pedestrian, or there will be available at the time of the proposed use sufficient resources to reasonably mitigate such interruption;
4. There is no reasonable cause to find that such use will (i) endanger the public health, safety and welfare, (ii) create a material risk of injury to persons or damage or destruction of property or (iii) create a material interference with proper fire and ambulance service within the Village;
5. adequate sanitary facilities are available or will be provided to accommodate the proposed use;

F. If more than one applicant applies for a UPF permit for the same public area during an overlapping time and date, the Board may in its discretion select which person or organization will receive such UPF permit for such public area at such date and time based on the Board's determination as to which use will provide the greater public benefit to the Village and its residents. However, this provision shall not be applied to revoke a UPF permit which has already been issued to a given applicant.

G. The Board shall have the right from time to time, to establish fees to be paid by applicants in connection with the issuance of UPF permits, with such fees to be established based on the Board's determination as to reasonable and necessary costs which are likely to be incurred by the Village in connection with (i) the issuance and administration of such UPF permit and (ii) such use of public areas, including without limitation any costs related to electric power used by the applicant and any costs for police, fire, ambulance and/or clean up services directly related to such UPF permit.

H. The Board shall have the right to require the applicant, as a condition to the issuance of the UPF permit, to provide the Village with a bond in form and surety acceptable to the Board, in the amount of \$5,000 or such other amount as may be determined by resolution of the Board from time to time, to secure the Village from and against any and all losses, costs, claims, suits, damages, liabilities and expenses, including reasonable attorney's fees arising from the applicant's activities in connection with the UPF Permit. This provision shall not be deemed to limit the liability of an applicant to the Village or any third party pursuant to any provision of this Chapter, at law or in equity.

I. Contents of the UPF Permit. Each UPF permit shall state the following information:

- (1) The starting and ending times for the give use;
- (2) The public area to be used;
- (3) Whether alcoholic beverages may be served or consumed;
- (4) Any bond which may be required;

(5) Requirements if any, applicable to parking and/or avoiding or minimizing traffic disruptions, including disruptions caused by loading and unloading equipment and supplies;

(6) Any other information or conditions that the Board shall find reasonably necessary for the protection of persons or property.
Applicants for a UPF permit are responsible for all direct costs associated with the event, including but not limited to, clean-up and trash removal. The applicant shall return the public area used by the applicant to the condition it was in prior to such use. The applicant will be billed by the Village for any damages incurred beyond normal wear and tear.

59.7 Indemnification.

Each applicant for an Assembly Permit or UPF permit, as the case may be, shall execute an agreement, in a form satisfactory to the Board, indemnifying, defending and holding harmless the Village, its trustees, officers, employees, attorneys and agent, from any and all suits, claims, liability and expenses, including reasonable attorney's fees, arising or resulting from the issuance of such permit, including without limitation, any action or omissions, active or passive, by the applicant or any participants in connection with such permit; provided however, that this provisions shall not apply to any gross negligence or illegal conduct by the Village.

59.8 Discrimination Prohibited.

The Board shall not discriminate in granting, denying, revocation or suspending any permit under this Chapter based on speech content, political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

59.9 Village Clerk records.

The Village Clerk shall keep a record listing the names and numbers of persons to whom permits have been issued, the date of issuance thereof and the expiration date of each permit.

59.10 Revocation and Suspension, Cancellation.

A. Any permit issued under this Chapter may be suspended or revoked by any Authorized Official for "Good Cause". Each of the following shall be deemed "Good Cause":

(1) The applicant violates one or more terms and conditions applicable to the permit;

(2) The applicant has committed one or more crimes prior to or during the permit Term and the Board finds that: (i) there is a direct relationship between one or more such crimes and the activities engaged in by the applicant pursuant to the permit or (ii) the applicant's activities related to the permit would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public;

(3) The applicant engaged in fraud or bribery in securing the permit;

(4) The applicant is determined to have made one or more false statements as to a material matter in any application for a permit or other statement required by or pursuant to this

Chapter.

B. Any permit issued under this Chapter may be cancelled based on events occurring after issuance of the permit which create the risk of damage to property or injury to persons, including without limitation inclement weather, pandemic or other exigent circumstances.

59.11 Penalties; Severability.

Any person committing an offense against any provision of this Chapter shall, upon conviction thereof, be guilty of a violation, punishable by a fine of at least \$500, but not exceeding \$2,000, or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.

59.12 Invalidity, Severability.

In the event that any provision(s) of this Chapter shall be deemed invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to such provision(s) and the other provisions of this Chapter shall remain in full force and effect. Further, in the event that a court determines that any time, place and manner restriction or requirement is deemed invalid, the court shall be authorized to reduce such restriction or requirement, as the case may be, if doing so would render such provision valid.

59.13 Nothing contained herein shall be deemed to prohibit the Board from adopting and enforcing other policies from time to time with respect to the use of the gazebo, the Village Green, the war memorial and other public areas as the Board may deem necessary to protect the public, health, safety and welfare.

59.14 The Village Green and Public Assembly Events Policy adopted by the Board on June 2, 2014 is hereby repealed.

59.15 In the event that a UPF permit issued hereunder permits the possession and/or consumption of alcoholic beverages, a permit shall not be required for such possession and/or consumption under §6-3 of Chapter 6 of the Code (“Alcoholic Beverages”).

59.16 When effective. In accord with Municipal Home Rule Law §27(3), this Chapter shall be effective as of the date that it is filed with the Secretary of State.

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled “Parades, Public Assemblies and Use of Public Areas”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set

forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____ 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 to enact a new Chapter 59 entitled "Parades, Public Assemblies and Use of Public Areas"

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
August ____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—

Trustee Gerald Locascio	—	—	—
Trustee Thomas Meyer	—	—	—
TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: August __, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ___ day of _____, 2022, at 7:00 PM.

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Introducing a Local Law regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer Connections

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

___ Mayor Lauri Taylor
___ Trustee Daniel Peters
___ Trustee John Burweger
___ Trustee Gerald Locascio
___ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce the following proposed local law, to be known as Village of Pawling Local Law No. ___ for the Year 2022, entitled “Procedures for Reimbursement of Sewer Connection Costs” and to set a date for the public hearing on the said local law:

NOW THEREFORE BE IT ENACTED by the Board of Trustees of the Village of Pawling as follows:

“Local Law #__ for the Year 2022 designated as Procedures for Reimbursement of Sewer Connection Costs

Local Law #2 of 1989 entitled “Village of Pawling Sewer District No. One Sewer Use Regulations” is amended to add a new Article XIII which reads as follows:

XIII Escrow Procedure for Funding of Sewer Connection Expenses.

A. Purpose.

The purpose of this Article XIII is to ensure that any Applicant seeking to connect an Eligible Property to the Sewer System will reimburse the Pawling Joint Sewer Commission and the Village, as the case may be, for its reasonable and necessary costs and expenses incurred in connection therewith.

B. Certain Definitions.

As used in this Article,

1. “**Affiliate**” means, with respect to an Applicant, (i) any person or entity owning or controlling such Applicant in whole or in part or (ii) any person or entity owned or controlled by such Applicant in whole or in part.
2. “**Applicant**” means an owner of an Eligible Property who submits or has submitted an Application.
3. “**Application**” means an application submitted by an Applicant to the Pawling Joint Sewer Commission seeking a Sewer Connection.
4. “**Chair**” means the Chairman or Chairwoman of the Pawling Joint Sewer Commission, as the case may be.
5. “**Connection Expenses**” means all reasonable and necessary costs and expenses incurred by the Pawling Joint Sewer Commission or the Village in connection with the construction and completion of a given Sewer Connection, including without limitation:

- a) uncovering any portion of the Sewer System or connections thereto;
- b) opening any manhole or appurtenances of the Sewer System;
- c) opening any street or highway or public ground;
- d) cutting, removing and replacing of pipe or lines;
- e) excavation and filling;
- f) traffic control;
- g) engineering, surveying, legal and other professional fees and costs and expenses for materials;
- h) labor and equipment, including labor provided by personnel employed or engaged by the Pawling Joint Sewer Commission and/or the Village of Pawling;
- i) any testing and other fees charged by Dutchess County or other governmental agencies associated with the Sewer Connection; and
- j) any costs and expenses, including reasonable attorney's fees, incurred by the Pawling Joint Sewer Commission or the Village in connection with an action to enforce any violation by the Applicant or an Applicant's Affiliate of the provisions of this Article.

6. "**Eligible Property**" means a parcel of real estate located in the Village (i) which has frontage on a street in the Village under which a Sewer Main has been laid or (ii) which the PJSC has by resolution authorized to be served by the Sewer System.

7. "**Escrow Amount**" has the meaning set forth in Section XIII.E.2.

8. "**Pawling Joint Sewer Commission**" or "**PJSC**" means the executive body created pursuant to the Municipal Cooperation Agreement for Construction Financing and Operation of an Inter-Municipal Sewer Interceptor, Treatment and Disposal System ("Sewer System") which was entered into in 1983 by and between the Village of Pawling and the Town of Pawling, as has been amended from time to time, to administer the Sewer System and to exercise certain powers specified in such agreement.

9. "**Sewer Connection**" means, with respect to a given Applicant, the tapping into and laying of lateral line and other appurtenances from the Sewer Main to the boundary line of a given Eligible Property.

10. "**Sewer Main**" means the main sewer line of the Sewer System, which either (i) lies in the Village street adjacent to a given Eligible Property or (ii) is located adjacent or in proximity to the Eligible Property.

11. "**Sewer System**" has the meaning set forth in Section XIII.B.8.

12. **“Village”** means the Village of Pawling.

C. Applicability.

This Article shall apply to any Application submitted any Applications submitted at any time after the effective date of this local law.

D. Reimbursement of expenses for Sewer Connection.

Each Applicant for a Sewer Connection shall be responsible for reimbursing the Pawling Joint Sewer Commission for all Connection Expenses.

E. When and how Escrow Amount is required.

1. Each Applicant shall pay the Pawling Joint Sewer Commission an application fee of \$500 at the time the Application is submitted. This fee is non-refundable. In the event that the Application is approved and the given Sewer Connection is completed, such application fee will be credited towards the total amount that the Applicant must pay to reimburse the Pawling Joint Sewer Commission and the Village for the Connection Expenses.

2. Following receipt of the Application fee and Application, the Chairperson shall establish a preliminary escrow amount (“Escrow Amount”) and the Applicant shall pay the Escrow Amount to the Pawling Joint Sewer Commission. Such Escrow Amount shall be determined by the Chairperson based upon his or her estimate of the Connection Expenses for the given Sewer Connection. In arriving at such estimate, the Chairperson shall consult with and obtain advice from the Village engineer and/or other persons with applicable knowledge and/or experience related to construction work on municipal sewer systems. Without limiting the generality of the foregoing, the Chairperson may consider, the diameter of the sewer pipe, the surface features which are to be removed and replaced, elevation differences between original and termination point of the sewer lateral, the distance between the sewer pipes and the Applicant’s property and any other factors that reasonably relate to the Connection Expenses.

3. The Pawling Joint Sewer Commission shall deposit the Escrow Amount in a non-interest-bearing account maintained by the Pawling Joint Sewer Commission for custody of such funds.

4. Prior to payment of the Escrow Amount, the Pawling Joint Sewer Commission shall not be required to review or process the Application or commence work on the Sewer Connection.

F. Use of Escrow Amount to pay Connection Expenses.

1. The Chairperson shall review all bills and/or vouchers associated with the Sewer Connection and shall approve payment from the Escrow Amount of only such costs and expenses as he or she deem to be reasonable and necessary in connection therewith. Upon such review and approval by the Chairperson, the Pawling Joint Sewer Commission shall cause such bills or vouchers, as the case may be, to be paid out of the Escrow Amount and shall debit the separate record of such account accordingly. The vouchers shall be available on request to the Applicant.

2. If at any time prior to or after the completion of the Sewer Connection, the Chairperson determines that an addition to the Escrow Amount is required in order to fully cover the Connection Expenses, the Applicant shall be required to pay such additional amount within ten (10) days and such additional amount shall become part of the Escrow Amount.

3. Within thirty (30) days after later of (i) completion of the Sewer Connection and (ii) payment in full of all Connection Expenses from the Escrow Account, the balance remaining in the Escrow Account, if any, shall be refunded to the Applicant.

G. Appeals.

The Applicant may appeal to the Pawling Joint Sewer Commission any determination of the Chairperson with respect to (i) establishment of the Escrow Amount or (ii) approval and/or payment of any Connection Expenses. The Chairperson shall not vote on any decision made by the PJSC with respect to such appeal. With respect to a determination of the Chairperson with respect to the Escrow Amount, such appeal right shall be waived and null and void unless it is submitted on or before the 30th day after the Applicant is notified of the Escrow Amount. With respect to a determination of the Chairperson with respect to the approval and payment of any Connection Expense from the Escrow Amount, such appeal right shall be waived and null and void unless it is submitted on or before the 30th day after the completion of the Sewer Connection. A timely appeal to the Pawling Joint Sewer Commission pursuant to this Section XIII.G is a prerequisite to any challenge in any court of law.

H. Failure to make deposit or replenishment.

In the event the Applicant fails to pay any Escrow Amount or any addition thereto as provided in this Article, without limiting any other rights and remedies of the Village and/or the PJSC at law or in equity, the PJSC and/or the Village shall have the right, at the PJSC's or the Village's option, as the case may be, to exercise any one or more of the following remedies in whole or in part:

1. Refuse to accept and/or cease to process the Application and/or any other application submitted by the Applicant or an Affiliate of the Applicant to the Pawling Joint Sewer Commission for any permit, approval, certificate or entitlement of any kind;
 2. Cease work on the Sewer Connection;
 3. Refuse to turn on or suspend sewer service to the Applicant's property;
- and/or
4. Exercise any other remedy provided by law or in equity;

I. Charge Against Real Property.

Without limiting any other remedies of the Village and/or the PJSC, any unpaid Connection Fees shall be a charge against the Eligible Property which was the subject of the Application and shall be a lien against such real property and shall be collected in the same manner as real property taxes in accordance with the provisions the Real Property Tax Law.

In accord with Municipal Home Rule Law §27(3), this amendment shall be effective as of the date that it is filed with the Secretary of State.”

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Local Law No. ____ for the year 2022 entitled “Procedures for Reimbursement of Sewer Connection Costs”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____ 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. ____ for the year 2022 "Procedures for Reimbursement of Sewer Connection Costs"

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
August ____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Thomas Meyer	—	—	—
 TOTAL	 —	 —	 —

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: August ____, 2022

Jennifer Osborn, Village Clerk