

DATE OF MEETING: May 16, 2022  
PLACE OF MEETING: Village Hall, Pawling, New York  
MEMBERS PRESENT: Mayor Lauri Taylor  
Trustee Dan Peters  
Trustee John Burweger  
Trustee Jerry Locascio

The meeting was called to order at 7:00 P.M. with the Pledge of Allegiance.

**MOTION** by Trustee Peters to open the Public Hearing on Local Law No. 4 of 2022 to amend Local Law No. 2 of 2021 Regarding Reimbursement of Professional fees incurred by the Village in connection with land use applications at 7:01 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mr. David Daniels, a village attorney, went over the proposed local law.

There was no public comment.

**MOTION** by Trustee Peters to close the Public Hearing on Local Law No. 4 of 2022 to amend Local Law No. 2 of 2021 Regarding Reimbursement of Professional fees incurred by the Village in connection with land use applications at 7:03 P.M. **SECONDED** by Trustee Burweger. There was no discussion, all were in favor and the motion carried.

**\*\*Due to clerical reasons Local Law No. 4 of 2022 becomes Local Law No. 3 of 2022.\*\***

Mayor Taylor stated it was a Type II action and did not require SEQR. Mr. Daniels concurred.

Trustee Peters moved the following resolution, seconded by Trustee Burweger, to adopt Local Law No. 3 of 2022, to be known as "Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals"

**WHEREAS**, at the Board of Trustees meeting held on May 2, 2022 Local Law No. 3 of 2022 was introduced and the Board set the public hearing on this Local Law for May 16, 2022

**WHEREAS**, a duly noticed public hearing was held on May 16, 2022 and interested parties were provided an opportunity to be heard;

**NOW THEREFORE, BE IT ENACTED** that the Board of Trustees of the Village of Pawling hereby adopts the following Local Law:

Local Law No 3 for the year 2022 to be known as **“Procedures for determination and payment of reasonable and necessary fees relating to Applications for Land Use Approvals”**

1. **Certain Definitions.** As used in this local law:

- a. “Applicant” means a Person who submits an Application for Land Use Approval.
- b. “Application Review Process” means an Approval Board’s review of an Application for Land Use Approval.
- c. “Application for Land Use Approval” means any application submitted by an Applicant to an Approval Board seeking one or more Land Use Approvals with respect to real property located in the Village.
- d. “Approval Board” means any board of the Village with authority to issue a Land Use Approval, including without limitation, the Board, the Planning Board and the Zoning Board of Appeals.
- e. “Board” or “Board of Trustees” means the Board of Trustees of the Village.
- f. “Chapter 10-A” means Chapter 10-A of the Code of the Village of Pawling enacted by Local Law No 2 of the year 2022 and known as “Building Code Administration and Enforcement Procedures for Buildings and Zoning”.
- g. “Chapter 98” means Chapter 98 of the Code of the Village known as the “Zoning Law”.
- h. “Claimed Fee ” means the amount billed by a Professional to the Village for Professional Fees.
- i. “Effective Date” means the date on which this Local Law was filed with the New York State Secretary of State.
- j. “Escrow Amount” means any amount paid by an Applicant to the Village, as escrowee, whether as an initial or subsequent deposit, in order to provide funds to pay Reasonable and Necessary Fees related to the Applicant’s Application for Land Use Approvals.
- k. “Escrow Account” has the meaning set forth in Section 8.d
- l. “Estimated Fee” shall have the meaning set forth in Section 8.a.
- m. “Land Use Approval” means any approval of a Land Use Application by

an Approval Board pursuant to Chapter 98 or any other law, rule or regulation, including but not limited to site plan approval, subdivision approval, special use permit, zoning amendments, use variance, area variance, zoning interpretation and any other application to an Approval Board which is within the jurisdiction of such Approval Board and for which Professional Fees may lawfully be charged by the Approval Board to an Applicant.

- n. "this Local Law" means this local law number No.3 for the year 2022.
- o. "Pending Dispute" has the meaning set forth in Section 4.b
- p. "Person" means an individual, a partnership, a corporation, a limited liability company, a trustee, a trust and any unincorporated entity.
- q. "Planning Board" means the Planning Board for the Village.
- r. "Professional" means of the following: engineer, lawyer, architect, landscape designer, surveyor, municipal planner, environmental consultant and related professionals.
- s. "Professional Fee" means a fee for services rendered by a Professional to an Approval Board in connection with the Approval Board's review of an Application for Land Use Approval.
- t. "Reasonable and Necessary Fee" has the meaning set forth in Section 8.c.
- u. "Reviewer" means (i) the Mayor if the Approval Board is the Board of Trustees or (ii) the Chairperson of the Approval Board if the Approval Board is the Planning Board or Zoning Board of Appeals.
- v. "Section" means a numbered section of this Local Law.
- w. "Village" means the Village of Pawling  
"Zoning Board of Appeals" means the Zoning Board of Appeals for the Village.

- 2. **Local Law No 2 for the Year 2021** regarding reimbursement of professional fees incurred by the Village in connection with land use applications is hereby repealed.
- 3. **Article X of Chapter 98 entitled "Fees"** is repealed; provided however, for the avoidance of doubt, this Local Law shall not affect in any way the repeal of Local Law # 3 of 1987 as provided in former §98-57 of Chapter 98.

4. **Applicability.** This local law shall apply to:
  - a. all Applications for Land Use Approvals pending before any Approval Board as of the Effective Date and all Applications for Land Use Approval submitted thereafter;
  - b. all Professional Fees with respect to which any dispute is pending between an Applicant and the Village on the Effective Date, including, but not limited to, any declaratory judgment action, Article 78 Proceeding, action for disallowance and/or refund of fees and/or other litigation (each, a “Pending Dispute”); and
  - c. any determination or re-determination of Professional Fees charged to an Applicant by the Village at any time prior to the Effective Date upon the direction of a court of competent jurisdiction declaring or otherwise ruling that any fees or expenses imposed under this Local Law or any predecessor statute were improperly imposed, unconstitutional, or otherwise invalid;
5. Article X of Chapter 98 is reserved for future use.
6. **Section 10-19 of Chapter 10-A entitled “Fees”** is amended to read as follows:

**“10-19. Fees for permits, certificates and inspections.**

A fee schedule applicable to permits and certificates issued and inspections made under this Chapter 10-A shall be established and may be amended from time to time by resolution of the Board. The applicable fee set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application, the issuance of any Building Permit, any amended Building Permit, any renewed Building Permit, any Certificate of Occupancy, any temporary certificate, operating permit, construction inspection, fire safety and property maintenance inspection, and other action of the Building Inspector for which a fee is set forth on such fee schedule. No permit or certificate shall be issued and no inspection shall be performed by the Building Inspector until the Applicant has paid to the Village of Pawling the appropriate fee as provided in the fee schedule. The Board shall

review such fee schedule from time to time to ensure that such fees are no greater than the amount which the Board has estimated in good faith to be reasonably necessary to cover the costs to the Village of review, issuance and inspection of permits, certificates and inspections provided for in the Chapter; however exact congruence between total expenses and total fees for permits, certificates and inspections is not required.”

**7. Application Fees for Application for Land Use Approvals.**

- a. A schedule of fees payable for Applications for Land Use Approvals shall be established and may be amended from time to time by resolution of the Board of Trustees. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application for Land Use Approval.
- b. An Applicant shall not be placed on an Approval Board’s agenda until the Applicant has paid to the Village the appropriate fee as provided in the fee schedule (in addition to submitting any other documentation as may be required by law). The Board shall review such fee schedule from time to time to ensure that such fees are no greater than the amount which the Board has estimated in good faith to be reasonably necessary to cover the costs to the Village of review, processing and issuance of Land Use Approvals as provided for in the Chapter; however exact congruence between total expenses and total application fees for Land Use Approvals is not required.

**8. Estimates and Payments of Professional Fees Relating to Applications for Land Use Approval..**

- a. As soon as practical after an Applicant’s submission of an Application for Land Use Approval to an Approval Board, the Reviewer shall make a good faith estimate of the Professional Fees, if any, required for such Application for Land Use Approval (“Estimated Fee”).
- b. Prior to establishing an Estimated Fee, the Reviewer must make a determination that such Estimated Fee is a “Reasonable and Necessary Fee” as defined in Section 8.c and issue to the Applicant written notice of such

determination.

- c. A “Reasonable and Necessary Fee” means a fee that has been determined in good faith by the Reviewer or Board of Trustees, as the case may be, to meet each of the following conditions:
  - i. The fee is necessary to the Approval Board’s review and carrying out of its decision making function with respect to the Application for Land Use Approval in accord with applicable law and after taking into consideration the size, type and number of buildings and/or structures to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the Application for Land Use Approval, the project cost, and the complexity of the legal, engineering and/or planning issues presented by the Application for Land Use Approval to the extent that they bear upon the reasonableness and necessity of the given fee; and
  - ii. The fee bears a reasonable relationship to the average fees paid for similar professional services by applicants for comparable land use approvals in the region, with such determination to be confirmed by surveys of such expenses which are deemed reliable; and
  - iii. The fee does not fulfill any purpose other than to reimburse the Village for reasonable and necessary Professional Fees incurred by the Approval Board in connection with the decision-making process of the Approval Board in the review of the Application for Land Use Approval.
- d. Following the Reviewer’s issuance of the determination that an Estimated Fee is a Reasonable and Necessary Fee, the Reviewer shall advise the Applicant in writing as to the amount of such Estimated Fee, and within ten (10) days thereafter, the Applicant shall deposit the Estimated Fee into a non-interest bearing escrow account maintained by the Village for deposits in escrow by Applicants and for payments of Professional Fees (“Escrow Account”).
- e. An Application for Land Use Approval shall not be deemed complete unless and until the Applicant has paid the Estimated Fee in escrow to the Village as

provided above.

- f. The Estimated Fee for a given Application for Land Use Approval must be paid prior to the consideration of such Application for Land Use Approval by the Approval Board or prior to the continuation of such consideration, as the case may be.

**9. Payment of Professional Fees.**

- a. Payments to the Village from the Escrow Account as reimbursement for Professional Fees shall be made at the direction of the Reviewer from time to time, but only after the Reviewer has made a Determination that the Fee is Reasonable and Necessary Fee as provided in Section 8.c
- b. Upon completion of the Approval Board's review of an Application for Land Use Approval or upon the withdrawal of an Application for Land Use Approval, and after payment from the Escrow Account of all Professional Fees already incurred by the Village and approved by the Reviewer as provided in Section 9 a have been paid and deducted from the Escrow Account, any balance remaining in the Escrow Account shall be refunded to the Applicant within 30 days after the Applicant's request.

**10. Additional Payments into Escrow.** If at any time during the processing of an Application for Land Use Approval, the Reviewer estimates that the aggregate amount paid by the Applicant for deposit into the Escrow Account will be insufficient to meet the Professional Fees yet to be incurred, the Reviewer shall direct the Applicant to pay an additional Reasonable and Necessary Fee whereupon the Applicant will be required to pay such additional amount to the Village for deposit into the Escrow Account within ten (10) days thereafter "additional Reasonable and Necessary amount"). Until payment of such additional Reasonable and Necessary amount is made by the Applicant to the Village, the Approval Board shall not continue to consider, or review the Application for Land Use Approval.

**11. Notice of Determination.**

- a. The Reviewer shall provide the Applicant with written notice of any determination as to the amount of any Estimated Fee, additional Reasonable and

Necessary fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively. Such notice shall include copies of any vouchers with respect to any Claimed Fees which have been submitted to the Village by the applicable Professional. In addition, within fifteen (15) day after a written request from the Applicant, the Reviewer shall provide the Applicant with written documentation, if any, relied upon in whole or in part by the Reviewer in connection the Reviewer's determination that the given fee is a Reasonable and Necessary Fee.

- b. Any determination by a Reviewer establishing the amount of an Estimated Fee or additional Reasonable and Necessary Fee, or approving payment of a Claimed Fee, shall be made in writing and delivered to the Board of Trustee together with any surveys or other documentation supporting such determination.
- c. With respect to any Claimed Fee approved by the Reviewer, the Reviewer shall also provide the Board of Trustees with any bills and/or vouchers submitted to the Village by the Professional seeking payment of the Claimed Fee.

## **12. Appeal Right .**

- a. An Applicant shall have the right to appeal to the Board of Trustees any determination by a Reviewer as to the amount of any Estimated Fee, additional Reasonable and Necessary fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively by giving written notice to the Village Clerk. Such notice must be delivered to the Village Clerk by certified mail, return receipt requested on or before the last day of the thirty (30) day period immediately following the date that the Village mails notice to the Applicant of a Reviewer's determination as to the amount of any Estimated Fee, additional fee or Claimed Fee.
- b. Such appeal before the Board of Trustees is a prerequisite to any suit, action or proceeding by the Applicant in any court with respect challenging the amount of any Estimated Fee, additional Reasonable and Necessary Fee or Claimed Fee, as the case may be. Such right to appeal shall be deemed waived and shall be null and void if the Applicant does not request such hearing by notice to the Village within the aforesaid 30-day period. Such appeal will be scheduled for a



date which is within 30 days after such notice is given to the Village Clerk.

- c. The Board of Trustees shall audit the Claimed Fee pursuant to Village Law 5-524.
- d. In addition to any audit or other conditions legally required in connection with the Board of Trustee's approval to pay a Claimed Fee, such Claimed Fee shall not be approved for payment by the Board of Trustees unless the Board of Trustees reviews and adopts a resolution approving the Reviewer's determination that the Claimed Fee is a Reasonable and Necessary Fee.
- e. In the event that the Mayor has served as the Reviewer with respect to any Estimated Fee, additional Reasonable and Necessary fee or Claimed Fee and the Reviewer's determination is appealed to the Board of Trustees as provided herein, the Mayor shall abstain from voting on any determination by the Board of Trustees as to whether the Estimated Fee, additional fee or Claimed Fee, as the case may be, is a Reasonable and Necessary Fee.
- f. During such appeal the Board shall permit the introduction of verbal and written evidence from the Applicant, from the Village Attorney and/or other officials or representatives of the Village and from third parties as the Board deems material and relevant to the appeal.
- g. In connection with an Applicant's appeal of any determination by a Reviewer with respect to an Estimated Fee or additional Reasonable and Necessary Fee, if the Board of Trustees determines in good faith that such fee is a Reasonable and Necessary Fee, in whole or in part, then such fee or portion thereof which is a Reasonable and Necessary Fee shall be deposited in escrow by the Applicant as provided in Section 8 of this Local Law and the Applicant shall not be required to pay into escrow all or any portion of such Estimated Fee or additional Reasonable and Necessary Fee, as the case may be, which the Board of Trustees

finds is not a Reasonable and Necessary Fee.

- h. In connection with an Applicant's appeal of any determination by a Reviewer with respect to a Claimed Fee, if the Board of Trustees determines in good faith that such Claimed Fee is a Reasonable and Necessary Fee, in whole or in part, then such Claimed Fee or portion thereof which is a Reasonable and Necessary Fee shall be paid by the Village to the Claimant out of the Escrow Account and any other portion of such Claimed Fee shall not be paid by the Village to the Professional.
- i. A copy of any determination of the Board of Trustees with respect to a fee as provided in this Section 12 shall be delivered by the Board of Trustees to the Applicant.

### **13. Right of Appeal regarding Pending Disputes.**

- a. During the thirty (30) day period immediately following the Effective Date or during such other period of time as a court of competent jurisdiction shall direct, an Applicant who is the plaintiff in any Pending Dispute shall have the right to appeal the payment of any fees which are the subject of such Pending Dispute ("Disputed Fees") to the Board of Trustees by giving written notice to the Village Clerk. Such notice must be delivered to the Village Clerk by certified mail, return receipt requested on or before the last day of the thirty (30) day period immediately following the date of such notice of appeal or as otherwise directed by a court of competent jurisdiction
- b. Except as otherwise directed by a court of competent jurisdiction, such right to appeal shall be deemed waived and shall be null and void if the Applicant does not request such hearing by notice to the Village within the aforesaid 30-day period.

- c. Such appeal will be scheduled for a date which is within 30 days after such notice is given to the Village Clerk or as otherwise directed by a court of competent jurisdiction.
- d. During such appeal the Board shall permit the introduction of verbal and written evidence from the applicant, from the Village Attorney and/or other officials or representatives of the Village and from third parties as the Board deems material and relevant to the appeal.
- e. Within thirty (30) days after the date of the appeal, the Board shall issue a determination as to whether the Disputed Fees are Reasonable and Necessary Fees.
- f. In the event that the Board determines that all or any portion of the Disputed Fees are Reasonable and Necessary Fees, the Board shall require the payment of such fees by the Applicant to the Village. To the extent that the Board finds that all or any portion of the Disputed Fees are not Reasonable and Necessary Fees then any portion of such disapproved fees which have been previously paid by the Applicant to the Village shall be refunded by the Village to the Applicant and the Applicant shall not be required to pay any portion of such disapproved fees which have not been paid by the Applicant.

**14. Invalidity; Severability.** If any provision of this Local Law is determined to be invalid, this Local Law shall nevertheless be enforceable as to the remaining provisions of this Local Law as though the provision deemed to be invalid or ineffective were never part of the Local Law.

**15. Fees Required by Other Applicable Law.** The fees provided for in this Local Law are in addition to application or administrative fees required pursuant to any other provisions of the Code or any other law, rule or regulation, including SEQRA fees imposed pursuant to 6 NYCRR 617.13 (except that the professional fees imposed

hereunder in connection with SEQRA review shall be credited against the fees imposed under 6 NYCRR 617.13). Money deposited by applicants pursuant to this section shall not be used to offset the Village's general expenses of professional services for the several boards of the Village or its general administrative expenses.

16. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law (the "Effective Date")

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

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Thomas Meyer	Absent.

**MOTION** by Trustee Peters to accept that the proposed action for Local Law No. 3 is a Type II action, pursuant to 6 NYCRR Part 617.5(c) (37) and SEQR is not required. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Mr. Daniels suggested the Board rescind the prior resolution of adoption for Local Law No. 3 of 2022 because the SEQR should have been done first.

**MOTION** by Trustee Peters to rescind the prior adoption of Local Law No. 3 of 2022. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Trustee Peters moved the following resolution, seconded by Trustee Burweger, to adopt Local Law No. 3 of 2022, to be known as "Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals"

**WHEREAS**, at the Board of Trustees meeting held on May 2, 2022 Local Law No. 3 of 2022 was introduced and the Board set the public hearing on this Local Law for May 16, 2022

**WHEREAS**, a duly noticed public hearing was held on May 16, 2022 and interested parties were provided an opportunity to be heard;

**NOW THEREFORE, BE IT ENACTED** that the Board of Trustees of the Village of Pawling hereby adopts the following Local Law:

Local Law No 3 for the year 2022 to be known as **“Procedures for determination and payment of reasonable and necessary fees relating to Applications for Land Use Approvals”**

**17. Certain Definitions.** As used in this local law:

- x. “Applicant” means a Person who submits an Application for Land Use Approval.
- y. “Application Review Process” means an Approval Board’s review of an Application for Land Use Approval.
- z. “Application for Land Use Approval” means any application submitted by an Applicant to an Approval Board seeking one or more Land Use Approvals with respect to real property located in the Village.
- aa. “Approval Board” means any board of the Village with authority to issue a Land Use Approval, including without limitation, the Board, the Planning Board and the Zoning Board of Appeals.
- bb. “Board” or “Board of Trustees” means the Board of Trustees of the Village.
- cc. “Chapter 10-A” means Chapter 10-A of the Code of the Village of Pawling enacted by Local Law No 2 of the year 2022 and known as “Building Code Administration and Enforcement Procedures for Buildings and Zoning”.
- dd. “Chapter 98” means Chapter 98 of the Code of the Village known as the “Zoning Law”.
- ee. “Claimed Fee” means the amount billed by a Professional to the Village for Professional Fees.
- ff. “Effective Date” means the date on which this Local Law was filed with the New York State Secretary of State.
- gg. “Escrow Amount” means any amount paid by an Applicant to the Village, as escrowee, whether as an initial or subsequent deposit, in order to provide

funds to pay Reasonable and Necessary Fees related to the Applicant's Application for Land Use Approvals.

- hh. "Escrow Account" has the meaning set forth in Section 8.d
- ii. "Estimated Fee" shall have the meaning set forth in Section 8.a.
- jj. "Land Use Approval" means any approval of a Land Use Application by an Approval Board pursuant to Chapter 98 or any other law, rule or regulation, including but not limited to site plan approval, subdivision approval, special use permit, zoning amendments, use variance, area variance, zoning interpretation and any other application to an Approval Board which is within the jurisdiction of such Approval Board and for which Professional Fees may lawfully be charged by the Approval Board to an Applicant.
- kk. "this Local Law" means this local law number No.3 for the year 2022.
- ll. "Pending Dispute" has the meaning set forth in Section 4.b
- mm. "Person" means an individual, a partnership, a corporation, a limited liability company, a trustee, a trust and any unincorporated entity.
- nn. "Planning Board" means the Planning Board for the Village.
- oo. "Professional" means of the following: engineer, lawyer, architect, landscape designer, surveyor, municipal planner, environmental consultant and related professionals.
- pp. "Professional Fee" means a fee for services rendered by a Professional to an Approval Board in connection with the Approval Board's review of an Application for Land Use Approval.
- qq. "Reasonable and Necessary Fee" has the meaning set forth in Section 8.c.
- rr. "Reviewer" means (i) the Mayor if the Approval Board is the Board of Trustees or (ii) the Chairperson of the Approval Board if the Approval Board is the Planning Board or Zoning Board of Appeals.
- ss. "Section" means a numbered section of this Local Law.
- tt. "Village" means the Village of Pawling  
"Zoning Board of Appeals" means the Zoning Board of Appeals for the Village.

18. **Local Law No 2 for the Year 2021** regarding reimbursement of professional fees incurred by the Village in connection with land use applications is hereby repealed.
19. **Article X of Chapter 98 entitled “Fees”** is repealed; provided however, for the avoidance of doubt, this Local Law shall not affect in any way the repeal of Local Law # 3 of 1987 as provided in former §98-57 of Chapter 98.
20. **Applicability.** This local law shall apply to:
- a. all Applications for Land Use Approvals pending before any Approval Board as of the Effective Date and all Applications for Land Use Approval submitted thereafter;
  - b. all Professional Fees with respect to which any dispute is pending between an Applicant and the Village on the Effective Date, including, but not limited to, any declaratory judgment action, Article 78 Proceeding, action for disallowance and/or refund of fees and/or other litigation (each, a “Pending Dispute”); and
  - c. any determination or re-determination of Professional Fees charged to an Applicant by the Village at any time prior to the Effective Date upon the direction of a court of competent jurisdiction declaring or otherwise ruling that any fees or expenses imposed under this Local Law or any predecessor statute were improperly imposed, unconstitutional, or otherwise invalid;
21. Article X of Chapter 98 is reserved for future use.
22. **Section 10-19 of Chapter 10-A entitled “Fees”** is amended to read as follows:

**“10-19. Fees for permits, certificates and inspections.**

A fee schedule applicable to permits and certificates issued and inspections made under this Chapter 10-A shall be established and may be amended from time to time by resolution of the Board. The applicable fee set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application, the issuance of any Building Permit, any amended Building Permit, any renewed Building Permit, any Certificate of Occupancy, any temporary certificate, operating permit,

construction inspection, fire safety and property maintenance inspection, and other action of the Building Inspector for which a fee is set forth on such fee schedule. No permit or certificate shall be issued and no inspection shall be performed by the Building Inspector until the Applicant has paid to the Village of Pawling the appropriate fee as provided in the fee schedule. The Board shall review such fee schedule from time to time to ensure that such fees are no greater than the amount which the Board has estimated in good faith to be reasonably necessary to cover the costs to the Village of review, issuance and inspection of permits, certificates and inspections provided for in the Chapter; however exact congruence between total expenses and total fees for permits, certificates and inspections is not required.”

**23. Application Fees for Application for Land Use Approvals.**

- a. A schedule of fees payable for Applications for Land Use Approvals shall be established and may be amended from time to time by resolution of the Board of Trustees. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application for Land Use Approval.
- b. An Applicant shall not be placed on an Approval Board’s agenda until the Applicant has paid to the Village the appropriate fee as provided in the fee schedule (in addition to submitting any other documentation as may be required by law). The Board shall review such fee schedule from time to time to ensure that such fees are no greater than the amount which the Board has estimated in good faith to be reasonably necessary to cover the costs to the Village of review, processing and issuance of Land Use Approvals as provided for in the Chapter; however exact congruence between total expenses and total application fees for Land Use Approvals is not required.

**24. Estimates and Payments of Professional Fees Relating to Applications for Land Use Approval.**

- a. As soon as practical after an Applicant’s submission of an Application for Land Use Approval to an Approval Board, the Reviewer shall make a good faith



estimate of the Professional Fees, if any, required for such Application for Land Use Approval (“Estimated Fee”).

- b. Prior to establishing an Estimated Fee, the Reviewer must make a determination that such Estimated Fee is a “Reasonable and Necessary Fee” as defined in Section 8.c and issue to the Applicant written notice of such determination.
- c. A “Reasonable and Necessary Fee” means a fee that has been determined in good faith by the Reviewer or Board of Trustees, as the case may be, to meet each of the following conditions:
  - i. The fee is necessary to the Approval Board’s review and carrying out of its decision making function with respect to the Application for Land Use Approval in accord with applicable law and after taking into consideration the size, type and number of buildings and/or structures to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the Application for Land Use Approval, the project cost, and the complexity of the legal, engineering and/or planning issues presented by the Application for Land Use Approval to the extent that they bear upon the reasonableness and necessity of the given fee; and
  - ii. The fee bears a reasonable relationship to the average fees paid for similar professional services by applicants for comparable land use approvals in the region, with such determination to be confirmed by surveys of such expenses which are deemed reliable; and
  - iii. The fee does not fulfill any purpose other than to reimburse the Village for reasonable and necessary Professional Fees incurred by the Approval Board in connection with the decision-making process of the Approval Board in the review of the Application for Land Use Approval.
- d. Following the Reviewer’s issuance of the determination that an Estimated Fee is a Reasonable and Necessary Fee, the Reviewer shall advise the Applicant in writing as to the amount of such Estimated Fee, and within ten (10) days

thereafter, the Applicant shall deposit the Estimated Fee into a non-interest bearing escrow account maintained by the Village for deposits in escrow by Applicants and for payments of Professional Fees (“Escrow Account”).

- e. An Application for Land Use Approval shall not be deemed complete unless and until the Applicant has paid the Estimated Fee in escrow to the Village as provided above.
- f. The Estimated Fee for a given Application for Land Use Approval must be paid prior to the consideration of such Application for Land Use Approval by the Approval Board or prior to the continuation of such consideration, as the case may be.

**25. Payment of Professional Fees.**

- a. Payments to the Village from the Escrow Account as reimbursement for Professional Fees shall be made at the direction of the Reviewer from time to time, but only after the Reviewer has made a Determination that the Fee is Reasonable and Necessary Fee as provided in Section 8.c
- b. Upon completion of the Approval Board’s review of an Application for Land Use Approval or upon the withdrawal of an Application for Land Use Approval, and after payment from the Escrow Account of all Professional Fees already incurred by the Village and approved by the Reviewer as provided in Section 9 9.a have been paid and deducted from the Escrow Account, any balance remaining in the Escrow Account shall be refunded to the Applicant within 30 days after the Applicant's request.

**26. Additional Payments into Escrow.** If at any time during the processing of an Application for Land Use Approval, the Reviewer estimates that the aggregate amount paid by the Applicant for deposit into the Escrow Account will be insufficient to meet the Professional Fees yet to be incurred, the Reviewer shall direct the Applicant to pay an additional Reasonable and Necessary Fee whereupon the Applicant will be required to pay such additional amount to the Village for deposit into the Escrow Account within ten (10) days thereafter (“additional Reasonable and Necessary amount”). Until payment of such additional Reasonable and Necessary amount is made by the Applicant to the Village, the

Approval Board shall not continue to consider, or review the Application for Land Use Approval.

**27. Notice of Determination.**

- a. The Reviewer shall provide the Applicant with written notice of any determination as to the amount of any Estimated Fee, additional Reasonable and Necessary fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively. Such notice shall include copies of any vouchers with respect to any Claimed Fees which have been submitted to the Village by the applicable Professional. In addition, within fifteen (15) day after a written request from the Applicant, the Reviewer shall provide the Applicant with written documentation, if any, relied upon in whole or in part by the Reviewer in connection the Reviewer's determination that the given fee is a Reasonable and Necessary Fee.
- b. Any determination by a Reviewer establishing the amount of an Estimated Fee or additional Reasonable and Necessary Fee, or approving payment of a Claimed Fee, shall be made in writing and delivered to the Board of Trustee together with any surveys or other documentation supporting such determination.
- c. With respect to any Claimed Fee approved by the Reviewer, the Reviewer shall also provide the Board of Trustees with any bills and/or vouchers submitted to the Village by the Professional seeking payment of the Claimed Fee.

**28. Appeal Right .**

- a. An Applicant shall have the right to appeal to the Board of Trustees any determination by a Reviewer as to the amount of any Estimated Fee, additional Reasonable and Necessary fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively by giving written notice to the Village Clerk. Such notice must be delivered to the Village Clerk by certified mail, return receipt requested on or before the last day of the thirty (30) day period immediately following the date that the Village mails notice to the Applicant of a Reviewer's determination as to the amount of any Estimated Fee, additional fee or Claimed Fee.
- b. Such appeal before the Board of Trustees is a prerequisite to any suit, action

or proceeding by the Applicant in any court with respect challenging the amount of any Estimated Fee, additional Reasonable and Necessary Fee or Claimed Fee, as the case may be. Such right to appeal shall be deemed waived and shall be null and void if the Applicant does not request such hearing by notice to the Village within the aforesaid 30-day period. Such appeal will be scheduled for a date which is within 30 days after such notice is given to the Village Clerk.

- c. The Board of Trustees shall audit the Claimed Fee pursuant to Village Law 5-524.
- d. In addition to any audit or other conditions legally required in connection with the Board of Trustee's approval to pay a Claimed Fee, such Claimed Fee shall not be approved for payment by the Board of Trustees unless the Board of Trustees reviews and adopts a resolution approving the Reviewer's determination that the Claimed Fee is a Reasonable and Necessary Fee.
- e. In the event that the Mayor has served as the Reviewer with respect to any Estimated Fee, additional Reasonable and Necessary fee or Claimed Fee and the Reviewer's determination is appealed to the Board of Trustees as provided herein, the Mayor shall abstain from voting on any determination by the Board of Trustees as to whether the Estimated Fee, additional fee or Claimed Fee, as the case may be, is a Reasonable and Necessary Fee.
- f. During such appeal the Board shall permit the introduction of verbal and written evidence from the Applicant, from the Village Attorney and/or other officials or representatives of the Village and from third parties as the Board deems material and relevant to the appeal.
- g. In connection with an Applicant's appeal of any determination by a Reviewer with respect to an Estimated Fee or additional Reasonable and Necessary Fee, if the Board of Trustees determines in good faith that such fee is a Reasonable

and Necessary Fee, in whole or in part, then such fee or portion thereof which is a Reasonable and Necessary Fee shall be deposited in escrow by the Applicant as provided in Section 8 of this Local Law and the Applicant shall not be required to pay into escrow all or any portion of such Estimated Fee or additional Reasonable and Necessary Fee, as the case may be, which the Board of Trustees finds is not a Reasonable and Necessary Fee.

- h. In connection with an Applicant's appeal of any determination by a Reviewer with respect to a Claimed Fee, if the Board of Trustees determines in good faith that such Claimed Fee is a Reasonable and Necessary Fee, in whole or in part, then such Claimed Fee or portion thereof which is a Reasonable and Necessary Fee shall be paid by the Village to the Claimant out of the Escrow Account and any other portion of such Claimed Fee shall not be paid by the Village to the Professional.
- i. A copy of any determination of the Board of Trustees with respect to a fee as provided in this Section 12 shall be delivered by the Board of Trustees to the Applicant.

## **29. Right of Appeal regarding Pending Disputes.**

- a. During the thirty (30) day period immediately following the Effective Date or during such other period of time as a court of competent jurisdiction shall direct, an Applicant who is the plaintiff in any Pending Dispute shall have the right to appeal the payment of any fees which are the subject of such Pending Dispute ("Disputed Fees") to the Board of Trustees by giving written notice to the Village Clerk. Such notice must be delivered to the Village Clerk by certified mail, return receipt requested on or before the last day of the thirty (30) day period immediately following the date of such notice of appeal or as otherwise directed by a court of competent jurisdiction

- b. Except as otherwise directed by a court of competent jurisdiction, such right to appeal shall be deemed waived and shall be null and void if the Applicant does not request such hearing by notice to the Village within the aforesaid 30-day period.
- c. Such appeal will be scheduled for a date which is within 30 days after such notice is given to the Village Clerk or as otherwise directed by a court of competent jurisdiction.
- d. During such appeal the Board shall permit the introduction of verbal and written evidence from the applicant, from the Village Attorney and/or other officials or representatives of the Village and from third parties as the Board deems material and relevant to the appeal.
- e. Within thirty (30) days after the date of the appeal, the Board shall issue a determination as to whether the Disputed Fees are Reasonable and Necessary Fees.
- f. In the event that the Board determines that all or any portion of the Disputed Fees are Reasonable and Necessary Fees, the Board shall require the payment of such fees by the Applicant to the Village. To the extent that the Board finds that all or any portion of the Disputed Fees are not Reasonable and Necessary Fees then any portion of such disapproved fees which have been previously paid by the Applicant to the Village shall be refunded by the Village to the Applicant and the Applicant shall not be required to pay any portion of such disapproved fees which have not been paid by the Applicant.

**30. Invalidity; Severability.** If any provision of this Local Law is determined to be invalid, this Local Law shall nevertheless be enforceable as to the remaining provisions of this Local Law as though the provision deemed to be invalid or ineffective were never part of the Local Law.

31. **Fees Required by Other Applicable Law.** The fees provided for in this Local Law are in addition to application or administrative fees required pursuant to any other provisions of the Code or any other law, rule or regulation, including SEQRA fees imposed pursuant to 6 NYCRR 617.13 (except that the professional fees imposed hereunder in connection with SEQRA review shall be credited against the fees imposed under 6 NYCRR 617.13). Money deposited by applicants pursuant to this section shall not be used to offset the Village's general expenses of professional services for the several boards of the Village or its general administrative expenses.

32. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law (the "Effective Date")

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

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Thomas Meyer	Absent.

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

Local Law No. 4 for the year 2022 entitled "Confirmation of the correct comprehensive plan for the Village of Pawling".

#### **Purpose**

The purpose of this law is to confirm the correct version of the comprehensive plan for the Village of Pawling for all purposes.

#### **Background**

In December of 1994, the Village adopted a comprehensive plan pursuant to Village Law 7-722 by enacting local law no 4 for the year 1994 (the "Adopted Plan"). The Adopted Plan was filed as a local law with the New York Secretary of State's office on March 24, 1995. The Adopted

Plan was signed by the Village Attorney and the Village Clerk and became effective upon its filing with the New York Secretary of State on March 24, 1995 pursuant to Municipal Home rule Law § 27, which provides that a local law becomes effective upon its filing with the New York Secretary of State. The Adopted Plan contains a certification from the former Village Clerk, Cheryl Harrington as follows: "I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript thereof and the whole of such original local law and was finally adopted in the manner indicated in paragraph 1 above." The Adopted Plan also contains the certification by the Village Attorney David Daniels that "the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto." The Draft Plan does not contain either of these certifications.

NOW, THEREFORE,

1. A copy of the Adopted Plan is attached to and made a part of this local law as Exhibit "A".
2. The Adopted Plan, as amended from time to time, is hereby confirmed to be the comprehensive plan for the Village of Pawling, having been adopted by the Board of Trustees of the Village of Pawling as Local Law No 4 of 1994 and having become effective on March 24, 1995, the date it was filed with the New York Secretary of State.
3. Any reference to the comprehensive plan in Chapter 98, Zoning Law of the Village of Pawling, shall be deemed to refer to the Adopted Plan, as amended.
4. 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 Burweger has introduced the following proposed local law for the Village of Pawling: Village of Pawling Local Law No. 4 for 2022, entitled "Local Law No. 4 for the year 2022 entitled "Confirmation of the correct comprehensive plan for the Village of Pawling"

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 on interest shall have an opportunity to be heard, to be held at the village Hall on June 6, 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 Trustee of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on June 6, 2022, at 7 o'clock p.m., on proposed Local Law No. 4 of 2022, entitled "Local Law No. 4 for the year 2022 entitled "Confirmation of the correct comprehensive plan for the Village of Pawling"; and

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:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

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

**Local Law No. 5 for the year 2022 repealing portions of Local Law No 1 for the year 2018 entitled “a local law Amending Chapter 98 Schedule B of the Village Code Entitled ‘Zoning’ and Village of Pawling Local Law No. 4 of 1994 to set maximum building height and permit limited residential occupancy on ground floors in Type 1 Urban Regulation for Shopfront mixed use buildings in the B-1 District, and amending Village of Pawling Local Law No. 4 of 1994 Comprehensive Plan Update §14 of Addendum to Comprehensive Plan”**

#### **Purpose**

The purpose of this Local Law No 5 for the year 2022 is to repeal local law No 1 for the year 2018 (the “2018 Law”) which (i) amended Chapter 98 Zoning Law by, inter alia, (i) increasing from 3.5 to 4 the allowable number of floors permitted for Type I Shopfront Buildings in the B-1 District; (ii) permitting residential use with a special permit in certain portions of the B-1 Zone in Type I Shopfront Buildings in the B-1 District; (iii) eliminating the maximum number of units specified in the Urban Regulations for Type I Shopfront Buildings in the B-1 District and (ii) amending one paragraph of the Village’s comprehensive plan (Local Law No 4 of 1994).

#### **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, as one means of achieving the above described key objectives, the Adopted Plan advocates permitting mixed uses, such as apartments over shops;

WHEREAS, as another means of achieving the above described key objective, prior to being amended by the 2018 Law, the Adopted Plan advocated not allowing residential uses on the 1<sup>st</sup> floor of Type I Shopfront buildings in the B-1 District;

WHEREAS, the Adopted Plan also 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 to 3.5 floors;

WHEREAS, the Board finds that the objectives of the Adopted Plan will be best served by undoing the changes in the Zoning Law effected by the 2018 Law;

WHEREAS, the 2018 Law also amended the Zoning Law to provide that in Schedule "C" thereof (which is the Bulk Schedule), a notation will be added to clarify that the number of floors and building height in feet do not apply to Type I Shopfront Mixed Use buildings that are subject to the Urban Regulations Type I in "Schedule "B" (which are the Urban Regulations");

WHEREAS, the Board finds that the foregoing amendment to Schedule "C" was entirely unnecessary and could lead to questions of statutory interpretation because § 98-14 of the Zoning Law provides that the Bulk Schedule applies to properties subject to the Urban Regulations; *provided, however, where applicable, the Urban Regulations shall prevail over contrary provisions in the Bulk Schedule* (emphasis added);

NOW, THEREFORE,

1. Local Law No 1 for the year 2018 is hereby repealed in its entirety.
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 Peters has introduced the following proposed local law for the Village of Pawling: Village of Pawling Local Law No. 5 for the year 2022 repealing Local Law No 1 for the year 2018 entitled " a local law Amending Chapter 98 Schedule B of the Village Code Entitled "Zoning" and Village of Pawling Local Law No. 4 of 1994 to set maximum building height and permit limited residential occupancy on ground floors in Type 1 Urban Regulation for Shopfront mixed use buildings in the B-1 District, and amending Village of Pawling Local Law No. 4 of 1994 Comprehensive Plan Update §14 of Addendum to Comprehensive Plan."

**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 June 6, 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 June 6, 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No. 5 for the year 2022 repealing Local Law No 1 for the year 2018 entitled " a local law Amending Chapter 98 Schedule B of the Village Code Entitled "Zoning" and Village of Pawling Local Law No. 4 of 1994 to set maximum building height and permit limited residential occupancy on ground floors in Type 1 Urban Regulation for Shopfront mixed use buildings in the B-1 District, and amending Village of Pawling Local Law No. 4 of 1994 Comprehensive Plan Update §14 of Addendum to Comprehensive Plan"

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:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

**MOTION** by Trustee Peters to amend the Public Hearing date for Local Law No. 5 to June 20, 2022. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

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

Local Law No 6 for the year 2022 to reduce the maximum square footage of structures not requiring a building permit.

**Section 1. Statement of Purpose and Intent.** In order to promote public health, safety and welfare, the board of trustees finds that the maximum gross square footage limit for floor areas of one story detached structures for which no building permit is required should be reduced from 144 square feet to 100 square feet. This local law is also intended to correct a typographical error in the name of Local Law No 2 for 2022.

**Section 2.** Section 10-6(C)(1) of Chapter 10-A "Building Code Administration and Enforcement Procedures for Buildings and Zoning" is hereby amended to read as follows:

“Construction or installation of one story detached Structures associated with one or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 100 square feet (9.29 square meters);”

**Section 3.** Local Law No. 2 for 2022 shall be known as “Chapter 10-A Building Code Administration and Enforcement Procedures for Buildings and Zoning” and any other contrary references to the name of such local law therein or in the resolution adopting same shall be amended to read: “Chapter 10-A Building Code Administration and Enforcement Procedures for Buildings and Zoning”

**Section 4.** This local law shall take effect immediately upon filing with the New York State Department of State.

\*\*\*\*\*

Mayor Taylor advised the Board of Trustees that, pursuant to the Municipal Home Rule Law of the State of New York, it was necessary to hold a public hearing upon this proposed local law.

Trustee Burweger offered the following resolution, which was seconded by Trustee Peters who moved its adoption:

WHEREAS, Trustee Burweger has introduced a proposed local law for the Village of Pawling, to be known as “Local Law No 6 for the year 2022 to reduce the maximum square footage of structures not requiring a building permit”

RESOLVED, that a public hearing be held in relation to the proposed adoption of “Local Law No 6 for the year 2022 to reduce the maximum square footage of structures not requiring a building permit” as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Village Hall on June 6, 2022 at 7 o'clock p.m., Prevailing Time, and that notice of said meeting 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 June 6, 2022, at 7 o'clock p.m., Prevailing Time on a proposed local law to be known as “Local Law No 6 for the year 2022 to reduce the maximum square footage of structures not requiring a building permit”

**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.

**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:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

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

Local Law No. 7 for the year 2022 to repeal Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" and adopting Chapter 58-A of the Code of the Village of Pawling entitled "Peddling and Soliciting".

Chapter 58-A  
Peddling and Soliciting

Article I  
General Provisions

**§ 58-1 Purpose.**

The purpose of this article shall be to improve and promote the health, safety and general welfare of the community, and the preservation and protection of the property of the Village and its inhabitants, by declaring and enforcing certain regulations and restrictions pertaining to Peddling and Soliciting.

**§ 58-2 Definitions.** As used in this Chapter the following terms shall have the meanings indicated:

**APPLICANT**

Any natural person who applies for and/or has been issued a Permit.

**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)

**MAYOR**

The Mayor of the Village

**PEDDLER**

Any person who shall engage in Peddling as herein defined.

**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 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.

**SOLICITING**

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 within the Village.

**SOLICITOR**

Any person who shall engage in Soliciting as hereinabove defined.

**TEMPORARY RESTRICTED AREA**

As defined in §98-6.

**VILLAGE OFFICIAL**

The Mayor or any official of the Village designated by the Mayor from time to time to perform any duty or take any action under this Chapter 58.

**VILLAGE**

The Village of Pawling

## **501(c) ORGANIZATION**

As defined in §58-3

### **§ 58-3 Permit Required.**

- A. Except as otherwise expressly provided herein, no Person shall engage in Soliciting or Peddling within the Village without procuring a Permit from the Village Clerk.
- B. A Disabled Veteran who is the holder of a current Dutchess County Veteran's License shall not be required to obtain a Permit for any Peddling or Soliciting in any street, avenue, alley, lane or park in the Village which is conducted without the use of any vehicle other than a hand driven vehicle.
- C. The provisions of this Chapter shall not apply to:
- a. any vendor participating in a farmer's market organized and operated by a not for profit corporation which has received approval from the Board to operate within the Village.
  - b. any individual under the age of eighteen (18) years old engaged in Peddling and/or Soliciting within the Village exclusively on behalf of (i) an organization which is exempt from tax under Section 501(c) of the Internal Revenue Code ("501(c) Organization") (ii) a club or other organization affiliated with a public school.

### **§ 58-4 Application.**

- A. No 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 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 Permit to be issued, not exceeding 60 days; the type of vehicle he uses, if any, and its registration number; two full faced photographs of the applicant taken within the 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 Application 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 attorney's fees, for which an applicant may be responsible hereunder.

D. Each applicant 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 Mayor of the Village or other Village Official for review and approval or disapproval. Such Village Official shall review the criminal history record information (CHRI) disseminated by DCJS in connection with the applicant's criminal background and investigation.

F. An applicant shall be disqualified from being issued a Permit if the applicant has been convicted of one or more criminal offenses and the Village Official determines, that either: (1) there is a direct relationship between one or more of the previous criminal offenses and the issuance of the Permit or (2) the issuance of the 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 Village 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 Permit.

H. The Mayor and/or the Board shall have the right to from time to time modify or waive the application and other requirements set forth in this Chapter, in whole or in part, for applicants engaged in Peddling and/or Soliciting within the Village exclusively on behalf of an organization which is (i) exempt from tax under Section 501(c) of the Internal Revenue Code ("501(c) Organization"), (ii) a public school, or (iii) a municipal agency or entity.

#### **§ 58-5 Fees; Bond.**

A. Except as expressly provided herein no Permit shall be issued under this Chapter unless and until the applicant has complied with each of the following conditions:

a. The applicant has paid a fee to the Village in the amount of \$200. The amount of such fee may be increased or decreased from time to time by resolution of the Board.

b. The applicant has provided a bond approved by the Village Attorney 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 any violation by the applicant of this Chapter or any other local, state or federal law pertaining to the 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.

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

a. The amount of fees payable by applicants hereunder;

b. The amount of the bond required to be posted by applicant.

C. The following applicants shall not be required to pay the fee or post the bond otherwise required under this §58-5:

a. An applicant who is engaged in Peddling and/or Soliciting within the Village exclusively on behalf of (i) an organization which is exempt from tax under Section 501(c) of



the Internal Revenue Code ("501(c) Organization") or (ii) a public school (including without limitation any public school sponsored or affiliated activity);

b. An applicant who is a former member of the armed services who at the time of applicant for the Permit is qualified for and holds a current Dutchess County Veteran's License.

**§58-6 Permit Conditions.**

A. A 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 60 days thereafter.

B. A Permit shall apply only to a single applicant and such Permit shall not be transferable to any other person.

C. Each applicant who has been issued a Permit shall at all times while engaged in Soliciting and Peddling within the Village, carry the 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 shall use a motor vehicle to engage in Soliciting or 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 shall use any vehicle for Soliciting or Peddling other than a vehicle listed on his Permit application.

F. No applicant shall engage in Soliciting or Peddling:

a. Within 20 feet of any entryway to a business or private residence without the written consent of the owner of the applicable residence or business; or

b. Within 100 feet of any Temporary Restricted Area while it is being used for an event or activity which (i) has been approved by resolution of the Board and (ii) is sponsored by a 501(c) organization or a club or other organization affiliated with a public school; provided, however, that such prohibition shall not apply to any applicant who is Peddling or Soliciting within the Temporary Restricted Area on behalf of such 501(c) organization, club or other organization affiliated with a public school, as the case may be. "Temporary Restricted Area" means a street sidewalk and/or other outdoor area within the Village which in the aggregate does not occupy more than 10,000 square feet.

G. No person engaged in Soliciting or Peddling shall make noise through the use of any loudspeaker, horn or any other amplification device or engage in any other activity which disturbs the peace.

H. The Board shall have the right from time to time, acting by resolution, to further restrict the location and days and hours of operation of any applicant holding a Permit if the Board first finds that such restriction is reasonable and necessary in order to avoid (i) unsafe or unhealthy congestion of persons and/or vehicles in Village streets, sidewalks or other public or private areas, and/or (ii) interference with the safe passage of pedestrians and/or vehicles through any or streets or sidewalks within the Village.

**§ 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 Prohibited conduct.**

No applicant shall enter a private residence 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.

**§ 58-9 Penalties for offenses.**

Any person who shall violate any of the provisions of this article shall, upon conviction thereof, be guilty of an offense and shall be required to purchase a license as provided herein and shall be sentenced to pay a fine not to exceed \$250 or imprisonment not to exceed 30 days, or both, for each and every offense.

**§58-10 Revocation and Suspension**

A Permit may be denied, suspended or revoked upon a recommendation of a Village Official and approval of such recommendation by the Board, after giving the applicant at least ten (10) days' notice and opportunity to be heard before the Board. No such denial, suspension or revocation shall be made without the Board's determination that "Good Cause" exists for such denial, suspension or revocation. 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: (1) there is a direct relationship between one or more such crimes and the activities engaged in by the applicant pursuant to the Permit or (2) the applicant's activities related to the Permit would involve a 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.

Any finding by the Board as provided in this Chapter shall not be overturned absent a finding that such finding was arbitrary and capricious and made without sound basis in reason or regard to the facts

**§58-11 Penalties.**

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 fifty dollars (\$250.), but not exceeding two hundred fifty dollars (\$250.), 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.

**§58-12 Repeal of Chapter 58.**

Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" is hereby

repealed in its entirety.

**§ 58-13 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 Peters has introduced the following proposed local law for the Village of Pawling: Local Law No.7 for the year 2022 to repeal Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" and adopt Chapter 58-A of the Code of the Village of Pawling 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 June 6, 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 June 6, 2022, at 7 o'clock p.m., on proposed local law identified as:

Local Law No.7 for the year 2022 to repeal Chapter 58 of the Code of the Village of Pawling entitled "Peddling and Soliciting" and adopt Chapter 58-A of the Code of the Village of Pawling 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  
May 16, 2022  
Jennifer Osborn, Village Clerk

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

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

The following Resolution was proposed by Trustee Burweger, who moved its adoption, and seconded by Trustee Locascio.

WHEREAS, the Village of Pawling Board of Trustees ("Trustees") is the governing board of the Village of Pawling; and

WHEREAS, Municipal Home Rule Law Section 20 provides, with emphasis added, as follows:

A proposed local law may be introduced only by a member of the legislative body at a meeting of such body or as may be otherwise prescribed by the rules of procedure adopted by the legislative body. No such local law shall be passed until it shall have been in its final form and either (a) upon the desks or tables of the members at least seven calendar days, exclusive of Sunday, prior to its final passage, or (b) mailed to each of them in postpaid properly addressed and securely closed envelopes or wrappers in a post box or post office of the United States post office department within the local government at least ten calendar days, exclusive of Sunday, prior to its final passage, or (c) **e-mailed to the e-mail in-box of each of them in the Portable Document Format (PDF) at least ten calendar days, exclusive of Sunday, prior to its final passage, provided that (i) the local government has documented that each member of the legislative body has an e-mail address, (ii) the local government has published such e-mail address on the bulletin board of the local government clerk, and (iii) the legislative body has unanimously adopted a resolution authorizing such electronic delivery;** unless the elective or appointive chief executive officer, if there be one, or otherwise the chairman of the board of supervisors, in the case of a county, the mayor in the case of a city or village or the supervisor in the case of a town shall have certified as to the necessity for its immediate passage and such local law be passed by the affirmative vote of two-thirds of the total voting power of the legislative body.

WHEREAS, Village of Pawling has documented that each member of the board of trustees has an e-mail address and has published such e-mail address on the bulletin board of the Village Clerk;

NOW THEREFORE, be it resolved as follows:

RESOLVED: In connection with any proposed local law of the Village of Pawling, the requirements of Municipal Home Rule Law Section 20 that members of the board be provided a copy of such local law in final form prior to its passage, may be met by emailing such proposed local law in its final form to the email in-box of each of the members of the Board of Trustees in portable document format (PDF) at least ten calendar days, exclusive of Sunday, prior its final passage and be it further

RESOLVED: that the foregoing resolution shall not be construed to limit the means by which the requirements of Municipal Home Rule Law §20 may be met, i.e. be putting the local law in its final form either (a) upon the desks or tables of the members of the board of trustees at least seven calendar days, exclusive of Sunday, prior to its final passage, or (b) mailing to each of them in postpaid properly addressed and securely closed envelopes or wrappers in a post box or post office of the United States post office department within the local government at least ten calendar days, exclusive of Sunday, prior to its final passage.

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

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

The following Resolution was proposed by Trustee Locascio, who moved its adoption, and seconded by Trustee Burweger.

WHEREAS, Section 98- 65 (l) of the Village of Pawling Zoning Law authorizes the Planning Board, in connection with its review of any site plan application, to require architectural review of such site plan by an individual or firm designated by the Board of Trustees;

NOW THEREFORE, be it resolved as follows:

RESOLVED: the Board of Trustees hereby designates Robert Orr & Associates, 839 Chapel Street, New Haven, Connecticut 06510 ("ROA") as the architectural firm designated to conduct any architectural review as may from time to time be required by the Planning Board in connection any site plan application;

RESOLVED: the services of ROA in connection with any such architectural review shall be performed personally by Robert Orr;

RESOLVED: that the foregoing resolutions shall remain in effect until terminated or amended by further action of the Board of Trustees.

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

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent.

**MOTION** by Mayor Taylor to accept the amount of \$3,233.00 for the highway department items auctioned through Auctions International. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Burweger to approve the following budget modifications:

Decreasing the General Fund lines

A0.1110.1	\$6,717.77	Personal Services – Justice
A0.1110.4	\$8,373.75	Contractual Expenses – Justice
A0.1320.4	\$2,000.00	Contractual Expenses – Auditor
A0.1670.4	\$1,394.82	Contractual Expenses – Postage
A0.3320.1	\$3,000.00	Personal Services – Parking Enforcement

A0.3320.4	\$1,200.00	Contractual Expenses – Parking Enforcement
A0.3620.1	\$4,725.00	Personal Services – Building Inspection Dept.
A0.5142.1	\$9,349.58	Personal Services – Snow Removal
A0.5142.4	\$16,540.39	Contractual Expenses – Snow Removal
A0.7550.4	\$1,077.05	Contractual Expenses – Celebrations
A0.8010.4	\$10,000.00	Contractual Expenses – Zoning
A0.8020.4	\$5,000.00	Contractual Expenses – Planning
A0.9040.8	\$8,004.07	Workman's Compensation

Increasing the General Fund lines

A0.1420.4	\$37,273.18	Contractual Expenses – Law
A0.3620.4	\$29,930.73	Contractual Expenses – Bldg. Inspection Dept.
A0.3620.41	\$4,567.50	Contractual Expenses – Bldg. Insp 146 E Main
A0.4020.4	\$150.00	Registrar of Vital Statistics
A0.5132.1	\$37.04	Personal Services – Garage
A0.5132.4	\$2,562.91	Contractual Expenses – Garage
A0.5142.2	\$944.04	Equipment – Snow Removal
A0.5182.4	\$1,917.03	Contractual Expenses – Street Lighting.

**SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Peters to approve the minutes from April 4, 2022. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mr. Dan Stone, a representative from LaBella, said a pre-application meeting was set up with the DEC to discuss the lower Baxter site. He reported they were interacting closely with EFC to close on the grant and the loan for the Umscheid project in December. Mr. Stone asked the Board for permission to work with the Clerk on seeking bids for the horizontal directional drill of pipe under DP22. Mr. Stone said he would like to present quotes to pre-purchase the HDPE pipes and pump for the Board's review at its June 6, 2022 Board meeting.

**MOTION** by Trustee Locascio to approve payment of the May 10, 2022 prepaids in the amount of \$195,846.47. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Peters to adjourn the meeting at 7:37 P.M. and go into Public Comment. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Peters to close Public Comment and return to regular session at 7:42 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Peters to go into Executive Session for litigation at 7:42 P.M.  
**SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Burweger to close Executive Session at 8:28 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

**MOTION** by Trustee Burweger to open regular session at 8:28 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Mayor Taylor said there were no decisions or motions made at Executive Session.

**MOTION** by Trustee Locascio to close the meeting at 8:28 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

  
Village Clerk