



***Village of Pawling  
9 Memorial Avenue  
Pawling, NY 12564***

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## **ESCROW POLICY ACKNOWLEDGMENT**

I have received and reviewed the Village of Pawling Escrow Policy and I have been given the opportunity to read Local Law No. 3 of 2022, a copy of which is attached, regarding responsibility for payment of consultant expenses incurred by the Village. We/I acknowledge that payment of the Village's consultant expenses and funding of escrow are the joint and several responsibilities of both the applicant and the Property Owner, if different. We/I understand the terms of the Local Law and of the Escrow Policy and we/I agree to comply:

Application Name: \_\_\_\_\_

Applicant (name printed): \_\_\_\_\_

Applicant Signature: \_\_\_\_\_

If Applicant is not the Real Property owner, then complete below:

Real Property Owner (print): \_\_\_\_\_

Real Property Owner Signature: \_\_\_\_\_

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 16<sup>th</sup> day of May, 2022, at 7:00 PM

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING**

***Identifier: Local Law No 3 for the year 2022 to be known as "Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals"***

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

**ABSENT:**

Trustee Tom Meyer

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 one 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 an 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

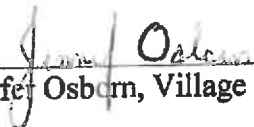
State Secretary of State in accordance with § 27 of the Municipal Home Rule Law (the  
"Effective Date"

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.

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 May 16, 2022.

Date: May 16, 2022

  
\_\_\_\_\_  
Jennifer Osborn, Village Clerk