

**LOCAL LAW \_\_ OF THE YEAR 2021 REIMBURSEMENT OF  
PROFESSIONAL FEES INCURRED BY THE TOWN IN  
CONNECTION WITH LAND USE APPLICATIONS**

**BE IT ENACTED THAT THE TOWN CODE BE AMENDED TO  
ADD AN ARTICLE XIX-A which shall state as follows:**

**ARTICLE XIX-A**

**Section 165-96-A Payment of expenses of professional review  
services for all land use applications before all Boards in the  
Town.**

**Section 165-96-A.1 Payment of expenses of professional review  
services.**

**(a)**

As used in this article, the following terms shall have the following meanings:

**LAND USE PERMIT**

Any governmental permit or approval required by this Code or other applicable law, rule or regulation concerning the use of real property, including but not limited to site plan approval, site development plan approval, subdivision approval, zoning amendment, other local law change, special permit, use variance, area variance, interpretation, change of use permit, certificate of legal nonconformity, building permit, SEQRA review, or other land use permit application or appeal.

**REVIEWER**

Any governmental Board, or other body or any official which has the jurisdiction, authority, or duty to make a determination as to the approval or disapproval of an application for a land use permit.

**(b)**

This article shall apply to all land use permit applications pending before any reviewer at the time that this article is filed with the Secretary of State and all applications submitted thereafter. All professional review fees incurred by the Town after such date shall be paid as provided herein.

**(c)**

An applicant for a land use permit may be required by the Reviewer to bear the expenses incurred in obtaining the services of professional consultants required by the reviewer during the consideration of such land use permit application.

**(d)**

The review expenses provided for herein are in addition to application or administrative fees required pursuant to any other provisions of this chapter or 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 Town's general expenses of

professional services for the several boards of the Town or its general administrative expenses.

**Section 165-96-A.2 When and how deposit required.**

**(a)**

In connection with any land use permit application, the Reviewer to whom such application is made may, at any time during the pendency of such application, require an applicant to deposit an initial sum of money into an escrow account in advance of the review or continuation of the review of the application. No application shall be deemed to be complete unless and until such deposit is made.

**(b)**

The applicant shall be required to deliver such amount as is determined appropriate by the Reviewer, as provided herein, to the Town for deposit by the Zoning and Planning Board Clerk in a non-interest-bearing escrow account maintained by the Town of Putnam Valley for custody of funds collected pursuant to this section. Said escrow deposit must be paid prior to the consideration of the application by the Reviewer, or prior to the continuation of such consideration.

**(c)**

Upon completion of the review of an application or upon the withdrawal of an application, and after all fees already incurred by the Town have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within 30 days after the applicant's request.

**Section 165-96-A.3 Amount of deposit.**

The escrow fund amount shall be based on the estimated cost to the Town of professional review of the particular type of application before it. The Reviewer may consider the professional review expenses incurred by neighboring municipalities in reviewing similar applications. The Reviewer may also consider available surveys of professional review expenses in determining the initial sum of money to be deposited in an escrow account by the applicant. For the purpose of this article, professional review services shall be defined as, but not limited to, those services provided by stenographers, engineers, lawyers, architects, landscape designers, certified surveyors, property appraisers, planners and related professionals.

#### **Section 165-96-A.4 Replenishment of escrow.**

If at any time during the processing of a land use permit application there shall be insufficient funds on hand to the credit of an applicant to pay the professional review expenses in full, or if it shall reasonably appear to the Reviewer that such funds will be insufficient to meet professional review expenses yet to be incurred, the Reviewer shall require the applicant to deposit such additional sums as the Reviewer deems necessary or advisable in order to meet such expenses or anticipated expenses. Until such payment is made by the applicant, the Reviewer shall not continue to consider or review said application. No application shall be deemed to be complete unless and until such additional deposit is made.

#### **Section 165-96-A.5 Payment of expenses.**

**(a)**

Said escrow fund shall be used to pay the reasonable and necessary costs of a proper and thorough professional review of the application.

**(b)**

The Chairman or director of the Reviewer having jurisdiction over the Reviewer shall review and audit all such vouchers and shall approve payment of only such consultant charges as are reasonable in amount and necessarily incurred in connection with the review and consideration of applications. A charge or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by consultants to the Town for services performed in connection with the review of a similar application. In auditing the vouchers, the Town may take into consideration the size, type and number of buildings to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the application and any special conditions the Town may deem relevant. A charge or part thereof is necessarily incurred if it was charged by the consultant for services rendered in order to protect or promote the health, safety, or other vital interests of the residents of the Town, and protect public or private property from damage. In no event shall any applicant make direct payment to any Town consultant.

**(c)**

Upon review and approval as provided herein of itemized vouchers from professional consultants for services rendered on behalf of the Town regarding a particular application, the Town shall cause such vouchers to be paid out of the monies so deposited, and shall debit the separate record of such account accordingly. The professional consultant shall make copies of such vouchers available on request to the applicant at the same time the vouchers are submitted to the Town.

**(d)**

The Applicant may appeal the determination of the Reviewer with respect to the review and audit or expenses charged to the applicant hereunder to the Town Board within 20 days of receipt of any statement of expenses received from the Reviewer by written notice to the Town Board delivered within the said 20 day period.

**Section 165-96-A.6 Failure to make deposit or replenishment.**

**(a)**

In the event the applicant fails to deposit the required sum into an escrow account or to replenish said escrow as required, any land use permit application or approval shall be withheld or suspended by the Reviewer until such sum is deposited. No Reviewer shall give any approval conditioned on future payments to be made. Any costs incurred by the Town for professional services in processing a certificate of occupancy shall be recovered as a fee before said certificate shall be issued. No future application to any Town board, body or official shall be accepted, nor shall any Town permit or certificate be issued, if said applicant has outstanding any fees due the Town from any previous land use permit applications.

**(b)**

Any expenses for professional review fees incurred by the Town in connection with a land use permit application shall be a charge against the real property which was the subject of the application and shall be a lien against such real property and shall be collected in the same manner as real property taxes in accordance with the provisions the Real Property Tax Law

**(c)**

In the event of either a site plan, site development plan, special use permit, subdivision plat, or other application approved by the Planning Board pursuant to the NYS Town Law, or the Town of Putnam Valley Code, the Planning Board Chairman shall not affix his or her signature to such site plan, special use permit or subdivision plan until all outstanding professional review expenses have been paid by the applicant.