

Local Law No. 4 of 2014

Local Law Requiring the Reimbursement of Expenses Associated with the Review of Zoning and Land Use Applications

Section 1. Title

This Local Law shall be referred to as the “Local Law Requiring the Reimbursement of Expenses Associated with the Review of Zoning and Land Use Applications.”

Section 2. Purpose, Intent and Findings

The Town of Tyre (the “Town”) recently adopted a Comprehensive Plan which identified certain weaknesses in the Town’s existing land use regulations, including the absence of site plan and subdivision regulations. To address the weaknesses identified by the Comprehensive Plan, the Town recently adopted Local Law No. 1 of 2014 enacting Planned Unit Development procedures for certain projects that exceed 75 acres, and is considering the adoption of site plan and subdivision regulations.

The Town has received an application for a multi-family residential development and it anticipates other applications for commercial and residential development being filed in the near future. However, the Town has limited resources available to it to retain any private consultants, including, but not limited to, attorneys and engineers, necessary for the Town to thoroughly review and evaluate certain zoning and/or land use applications. The Town therefore finds it necessary to require the reimbursement of costs imposed by this Local Law in order to obtain the expert services necessary to assist the Town with its review of certain zoning and/or land use applications.

Section 3. Reimbursement Costs

A. Reasonable costs incurred by the Town Board, the Town Zoning Board of Appeals or the Town Planning Board (each of these being a “Town board”) to retain private consultants, including, but not limited to, attorneys and engineers, to assist with the review and evaluation of certain zoning and/or land use applications, including, but not limited to concept or sketch plans, site plans, special permits, PUDs, variances, or zoning law amendments, shall be charged to the applicant. The costs shall be reasonable in amount and limited to activities necessary to the accomplishment of the respective reviewing board’s regulatory and government functions. Such reimbursement costs shall be in addition to any application fees required by the Town Zoning Law.

B. This provision shall not apply to applications for minor projects. For purposes of this provision, minor projects shall include all projects classified as “Type II” actions pursuant to 6 N.Y.C.R.R. §617.5, and such other and similar small projects as the Town or any of its reviewing boards, in their discretion, may exempt from this provision.

C. The Town board authorized to review a certain application shall make a reasonable estimate of the amount of the private consultant expenses it expects to incur during the course of its review and evaluation. In making this estimate, the reviewing board shall be guided by the following:

- i. Previous experience of costs associated with review of similar projects;
- ii. In situations where the reviewing board is the “lead agency” under the State Environmental Quality Review Act (SEQRA), the procedures and standards of 6 N.Y.C.R.R. §617.13 and the provisions of the Town Zoning Law;
- iii. Where the project involves property that is or may be heavily contaminated by past industrial, commercial or agricultural use, anticipated costs of consultants and/or Town employees for testing, analysis, site monitoring and other actions reasonably needed to protect public health and safety may be assessed; and
- iv. Discussions with the applicant’s legal and technical representatives, appropriate Town officials and the private consultants as to the likely course of the application review process and the issues likely to be encountered during that process.

D. Alternatively, the applicant may elect to make an initial deposit in the following amounts:

- i. Site plan under 4,000 square feet - \$1,000, plus \$50 per required parking space;
- ii. Site plan over 4,000 square feet, but less than 10,000 square feet - \$2,500, plus \$50 per required parking space;
- iii. Site plan over 10,000 square feet - \$5,000, plus \$50 per required parking space;
- iv. Planned Unit Development Application - \$7,500.

E. The amount determined by the Town board authorized to review a certain application under (C.) above, or the applicant under (D.) above, shall be deposited by the applicant in escrow with the Town Clerk prior to the reviewing board commencing any review of the application. If the amount so deposited is exhausted or diminished during the review process to the point that the reviewing Town board determines that the remaining amount will not be sufficient to enable the board to complete its review of the application, the reviewing Town board may notify the applicant of the additional amount that must be deposited with the Town Clerk. This additional amount shall also be established in a manner consistent with the provisions of subparagraph (C.) above.

If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this paragraph, the reviewing Town board in its discretion may:

- i. Cease review of the application until such amounts are paid; or
- ii. Deny the application.

In no event, however, shall any zoning and/or land use approval be issued until all such sums reasonably assessed to the applicant have been paid in full. At the conclusion of the application review process, all funds not expended by the reviewing Town board shall be returned to the applicant.

F. Disbursement of funds from the escrow account by the Town to pay the invoices of its consultants shall be made by the Town Clerk following review and approval by the Town Supervisor.

Section 4. Supersession

This local law supersedes any inconsistent provisions in the Sections the Town Zoning Law and in any other Local Law of the Town of Tyre.

Section 5. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 6. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with §27 of the Municipal Home Rule Law.