

LOCAL LAW 3-2000
A LOCAL LAW REALTING TO
DEVELOPMENT AND PROJECT FEES IN THE TOWN OF LAFAYETTE

DEVELOPER FEES

Section 1. Legislative Findings, Intent and Purpose

A. The Town Board hereby finds and determines that in order to protect and safeguard the Town of LaFayette, its residents and their property with respect to certain land developments and projects within the Town, all buildings and related improvements, Highways, Drainage Facilities, Utilities and Parks within Developments and Projects should be designed and constructed in a competent and worker like manner and in conformity with all applicable governmental laws, codes, rules and regulations and should be dedicated and conveyed to the Town in a legally sufficient manner. To assure the forgoing it is essential for the Town to have and to retain competent engineers and other professional consultants to review and approve plans and designs, make recommendations to the Town Board, Planning Board and Zoning Board of Appeals, inspect the construction of Highways, drainage Facilities, Utilities and Parks to be dedicated to the Town and to recommend their acceptance by the Town and for the Town to have and retain competent attorneys to assist in the application review process, to negotiate and draft appropriate agreements with Developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed deeds and easements to assure that the Town

is obtaining good and proper title, to render legal opinions and to generally represent the Town with respect to any legal disputes and issues which may arise regarding such Developments and Projects. The cost of retaining such competent engineers, attorneys and other professional consultants should ultimately be paid by those who seek to benefit from such developments and projects, including variances, Controlled Site approvals, Specific permits or uses rather than by general Town funds which are raised by assessments and/or general taxes paid by taxpayers of the Town.

- B. This Chapter is enacted by local law under the authority of Municipal Home Rule Law Section 10, Subdivision 1 (ii)(a)(12) and (d)(3), and the Municipal Home Rule Law Section 22. To the extent that Town Law Sections 274-a, 276 and 277 do not authorize the Town Board, Town Planning Board and/or the Town Zoning Board of Appeals to require reimbursement to the Town of legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of applications for Subdivision approval, for the approval, amendment or extension of a District and for the review and consideration of applications for Variances, Controlled Site Plans and Specific Permits under the Code, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, to the extent that such statutes do not authorize the deferral or withholding of such consideration, review, acceptance or approvals in the event that such fees, expenses and costs are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law Section 274-a, 276 and 277 to empower the Town to require such payment as a condition to such consideration,

review, acceptance or approvals.

Section 2. Definitions

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

- A. **APPLICANT:** Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the LaFayette Planning Board, Zoning Board of Appeals or Town Board to approve a subdivision and/or to grant an application for a Variance, a Controlled Site Plan or a Specific Permit.
- B. **DEVELOPER:** Any person, firm, partnership, association, corporation, company or organization of any kind who or which (1) constructs or proposes to construct one or more Highways, Drainage Facilities, Utilities or Parks within or in conjunction with a Development with the intent to convey or dedicate the same to the Town, or (2) requests the Town to create a District, or (3) requests the Town to approve an application for a Subdivision, Variance, Controlled Site Plan or Specific Permit.
- C. **DEVELOPMENT:** Includes, but is not limited to a Subdivision or a District.
- D. **DISTRICT:** Any special district under the Town Law.
- E. **DRAINAGE FACILITY:** All surface water drainage facilities, including but not limited to detention and retention basins, storm sewers and their appurtenances, drainage swales and ditches and any easements through or over which such facilities may be constructed or installed within

or in conjunction with a Development.

- F. **HIGHWAY:** Includes, but is not limited to, a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass or underpass and also includes a)) items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks within or in conjunction with a Development.
- G. **PARK:** An area of land located within a Development which is open to the public and I devoted to active or passive recreation.
- H. **PLANNING BOARD:** The Planning Board of the Town of LaFayette.
- I. **SUBDIVISION:** a subdivision of land as defined in the Town of LaFayette Subdivision Regulations.
- J. **SUPERVISOR:** Supervisor of the Town of LaFayette.
- K. **TOWN:** The Town of LaFayette.
- L. **TOWN BOARD:** The Town Board of the Town of LaFayette.
- M. **UTILITIES:** All water, sanitary sewer, gas, electric, telephone and cable television facilities and any easements through or over which said facilities may be constructed or installed within or in conjunction with a Development.
- N. **ZONING BOARD OF APPEALS:** the Zoning Board of Appeals of the Town of LaFayette.

SECTION 3. Reimbursement of Fees and Expenses.

A. Subdivisions.

- (1) An Applicant for approval of a Subdivision in the Town shall reimburse the Town for all reasonable and necessary legal,

engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such Subdivision.

- (2) A Developer who constructs or proposes to construct one or more Highways Drainage Facilities, Utilities or Parks within or in conjunction with an approved Subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the inspection and acceptance by the Town of such Highways, Drainage Facilities, Utilities and Parks and the dedication of the same to the Town.

B. Districts.

- (1) An Applicant for approval, amendment or extension of a District in the Town, shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of said application
- (3) A Developer who constructs or proposes to construct one or more buildings. Highways, Drainage Facilities, Utilities or Parks within or in conjunction with a District in the Town shall reimburse the Town for all reasonable and necessary legal.

C. Variances, Controlled Site Plans and Specific Permits.

An Applicant or Developer making application for the approval of a Controlled Site Plan or a Specific

Permit or seeking approval of an application for a Variance shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs by the Town in connection with the review and consideration of such application.

Section 4. Deposit of Funds; Payment of Fees.

- A. Simultaneously with the filing of an application for approval of a Development or the filing of an application for approval of a Variance, a Controlled Site Plan or a Specific Permit, the Applicant or Developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in accordance with the schedule of deposits fixed by the Town Board pursuant to this Local Law, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Town for legal, engineering and other professional consulting services as described in this Local Law.
- B. Upon receipt of such sums, the Supervisor shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the Applicant or Developer and the application and Development for which such sums were deposited
- C. Upon receipt and approval by the Supervisor of itemized vouchers from an attorney, engineer and/or other professional consultant for services for services rendered on behalf of the Town pertaining to the Development or the application for a Variance, Controlled Site Plan or Specific Permit

the Supervisor shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly.

The Supervisor shall furnish copies or such vouchers to the Applicant or Developer immediately after such vouchers are submitted to the Town.

- D. The Supervisor, on behalf of the Town and subject to audit and review by the Town Board shall review and audit all such vouchers and shall approve payment of only such legal, engineering, and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of Developments, the inspection and acceptance of Highways, Drainage Facilities, Utilities and Parks within or in conjunction with such Developments, and the review, consideration and approval of applications for Variances, Controlled Site Plans and Specific Permits. In this regard the Town may take into consideration the size, type, value and number of buildings to be constructed, the amount of time to complete the Development or project, the topography of the land on which such Development is located, soil conditions, surface water, drainage conditions, the nature and extent of Highways, Drainage Facilities, Utilities and Parks to be constructed and any special conditions or considerations the Town may deem relevant. For purposes of the foregoing, a fee, expense or cost, or part thereof is necessarily incurred if it was charged by the attorney, engineer or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents or the Town, protect public or private property from damage from uncontrolled surface water runoff and other factors to assure

the proper and timely construction of Highways, Drainage Facilities, Utilities and Parks and otherwise to protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated Highways and other facilities and the avoidance of claims and liability and such other interests as the Town may deem relevant or to assure the proper and timely review and consideration of an application for a Variance, Controlled Site Plan or a Specific Permit,

- E. If at any time during or after the processing of such application or the construction, inspection or acceptance of buildings, Highways, Drainage Facilities, Utilities or Parks or during or after the processing of an application for a Variance, Controlled Site Plan, or Specific Permit there shall be insufficient monies on hand to the credit of such Applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Supervisor shall cause the Applicant or Developer to deposit additional sums as the Supervisor deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.
- F. In the event that the Applicant or Developer fails to deposit such funds or such additional funds, the Supervisor shall notify the Town Board and, as applicable, the Chair of the Planning Board, the Chair of the Zoning Appeals Board, and the Town's Codes Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy shall be withheld by the appropriate board, officer or employee of the Town until such monies are deposited

G. After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific Development, Of any requested Variance, Controlled Site Plan or Specific Permit and after payment of all approved vouchers submitted regarding such Development or application, any sums remaining on account to the credit of such Applicant or Developer shall be returned to such Applicant or Developer, along with a statement of the vouchers so paid.

Section 5. Deposit Amounts.

The Amount of the initial deposit for the various developments and/or applications covered by this Local Law shall be as set forth in a schedule of deposits established from time to time by the resolution of the Town Board. The schedule shall remain in effect and shall apply to all Applicants and Developers until amended or revised by subsequent resolution of the Town Board.

Section 6. Application Fees.

The deposits required by this Local Law shall be *in* addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, the County of Onondaga, the State of New York or of any other body having jurisdiction with respect to a Development, Drainage Facility , Highway, Utility or Park or to an application for a Variance, Controlled Site Plan or a Specific Permit and shall not be used to defray either the Town's general expenses for legal, engineering or other professional consulting fees, expenses or costs for the several boards of the Town or its general administration expenses.

Section 7. Severability .

If any clause, sentence, paragraph, subdivision, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder thereof but shall be limited in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the proceeding in which such judgment is rendered.

Section 8. When Effective.

This Local Laws shall take effect immediately upon filing in the Office of the Secretary of State.

**LOCAL LAW 3-2000
TOWN OF LAFAYETTE
SCHEUDLE OF LEGAL DEPOSITS**

Subdivision

A)	Without roads or infrastructure improvements (on existing roads)	\$ 300.00
B)	With other involved agencies (SEQR)	\$ 400.00
C)	With roads, drainage (title issues)	\$2,500.00

Area Variance

A)	Without other involved agencies (SEQR)	\$ 250.00
B)	With other involved agencies (SEQR)	\$ 400.00

Specific Permit, Use Variance, Controlled Site Approval

A)	Without other involved agencies (SEQR)	\$ 250.00
B)	With other involved agencies (SEQR)	\$ 400.00

- C) Larger projects (anticipated traffic or Drainage issues) \$1,500.00

These are deposits only. If it appears the deposit will be exceeded, additional deposits may be required. If balance left upon completion of reviews it will be returned to the applicant.