

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Naples

Local Law 4 of the year 2023

FILED
STATE RECORDS

DEC 27 2023

DEPARTMENT OF STATE

A Local Law to amend the maximum cost for expert consultation fees that may be charged to applicants for Site Plan Reviews and Special Use Permit applications.

Be it enacted by the Town of Naples as follows:

Section 1. Short Title.

This Local Law shall hereafter be known as the “Site Plan Review and Special Use Permit Applications Amendment of 2023” for the Town of Naples.

Section 2. Legislative Findings and Intent

The Town Board of the Town of Naples has determined that the current allowance for payment by the applicant of costs incurred by the Planning Board for site plan review and special use permit application expert consultations is deficient and in need of amendment.

Section 3. Legislative Authority.

This Local Law is enacted pursuant to the authority granted by Article 16 of the Town Law and the provisions of the Municipal Home Rule Law (MHRL) of the State of New York, with the procedural provisions of the MHRL controlling.

Section 4. Provisions.

Subsection “H.” of §132-46 “Supplemental Regulations Pertaining to Site Plan Approvals,” of Chapter 132, “Zoning” of the Code of the Town of Naples is amended to provide as follows:

H. Site plan Review Expenses.

- (1) In addition to the site plan application fee established by the Town Board, costs projected to be incurred by the Planning Board for consultation fees with respect to engineering, legal, architectural, surveying or other like expenses related to the site plan application review shall be the sole responsibility of the applicant.
- (2) Upon receipt of a site plan and special use permit application, the applicant and the applicant’s representative, if any, shall receive a written notice of this responsibility. The determination of the need for retaining such consultants shall be in the sole discretion of the Planning Board and consultants shall be chosen solely by the Planning Board.
- (3) The Planning Board shall notify the applicant as soon as is reasonably possible of the need for such consultants. Such notification shall be in writing directed to the applicant and the applicant’s representative, if any. In the event that such a determination is made during a meeting at which the applicant and/or the

applicant's representative is present, such determination shall be made known verbally and placed in the record of the meeting, followed up with the written notification specified above.

(4) The applicant shall be advised of an estimate of the costs of such consultant(s). Reasonable efforts shall be made to advise applicant of the estimated costs for such consultant(s). Any changes in the costs for consultants shall be made known to applicant and/or applicant's representative as soon as is reasonably possible.

(5) In any event, payment of any such costs incurred by the Town for consultants for the site plan review shall be paid to the Town by or on behalf of the applicant prior to issuance of any permits, certificates or other documents required for the implementation of the site plan approval or conditions imposed upon the site plan approval and issuance of a special use permit.

(6) In the alternative, the Planning Board may determine in its sole reasonable discretion that the applicant be required to establish an escrow fund with the Town of Naples. That determination and the amount of the escrow fund shall be based upon the perceived complexity of the site plan review and special use permit application, the type and number of consultants that may be required and the estimated cost for such consultation(s). The refusal of an applicant to establish an escrow fund as directed by the Planning Board shall result in disapproval of the site plan application and/or special use permit application. Consultant costs shall be paid from the applicant's escrow fund. Upon completion of the site plan review and special use permit application process, the rendering of a decision thereon and payment of all consultant costs, any balance remaining in the applicant's escrow fund shall be refunded to the applicant. Escrow funds shall be deposited with a banking institution under the name of the Town of Naples. Such escrow funds shall be managed pursuant to standard municipal finance guidelines.

Section 5. Severability Clause

In the event that any section, paragraph, subdivision or provision of this local law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the remainder of this local law shall be valid and effective.

Section 6. Effective date.

This Local Law shall take effect subsequent to having been duly adopted by the Town Board of the Town of Naples and it having been filed with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of the year 2023, of the Town of Naples was duly passed by the Town Board on December 5, 2023, in accordance with the applicable provisions of law.

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 therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Morgan Riesenger-Town Clerk


(SEAL)

Date: December 7, 2023

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss:

I, the undersigned, hereby certify 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.


Edward J. Brockman, Town Attorney
Date: December 7, 2023

