

CHAPTER 22

LOCAL LAW NO. 13 OF 2016

A LOCAL LAW ENTITLED  
REIMBURSEMENT OF PROFESSIONAL CONSULTANT FEES

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF SHOREHAM, AS FOLLOWS:

SECTION 1.    PURPOSE.

The purpose of this local law is to enact a professional consultant reimbursement law as part of the Village Code.

SECTION 2.    ENACTMENT.

A Chapter 22 of the Village Code entitled Reimbursement of Professional Consultant Fees, is enacted, as follows:

§ 22-1.    **Legislative Intent.**

The Village Board hereby finds that the Village may incur expenses related to professional consulting services for review of certain applications and/or other or similar matters (hereinafter, an "application(s)") coming before the Village Board, Design Review Board, Planning Board or Zoning Board of Appeals, including but not limited to those regarding subdivisions, lot-line modifications, variances, architectural or design review, and other or similar or related matters. The professional consulting review process is necessary to promote the general health, safety and welfare of the Village and to carry out the enabling authority provided by the New York Legislature and implemented in the Village Code. The Village has the authority to submit any application coming before it for review by professional consultants, such as an engineer, environmental consultant, planner and/or other professional consultant, as it may deem necessary to enable it to review any such application, and the applicant should reimburse the Village for the cost thereof. Such costs shall only involve activities and services beyond the routine processing of these types of applications and not include legal fees incurred by the Village. All routine processing costs,

including mailing and publication of general meeting notices, stenographic public hearing transcripts and standard Building Department review shall be covered by and limited to the stated application fees fixed by resolution of the Village Board from time to-time. Recovery of the costs of professional consultants shall be limited to the instances set forth in this Chapter 22.

**§ 22-2. Regulations for Fees Charged.**

A. Referral to Consultants/Fees. The Village Board reviewing a given application may refer such application to an engineer, environmental consultant, planner or other professional consultant as the reviewing board shall deem reasonably necessary to enable it to review such application as required by law. Fees charged for any such professional shall be in accord with fees usually charged for such services in Suffolk County and pursuant to a contractual agreement between the Village and such professional consultant.

B. Village Clerk Review. The Village Clerk shall review such fees for professional consulting services prior to the assessment of any such fees as a charge reimbursable by an applicant. Applicants shall not be charged for fees for services rendered by professional consultants retained by the Village that relate to tasks performed for the mere convenience of the reviewing board, such as mere attendance by the Village Engineer at any regular public meeting of the reviewing board, except that in the case of specific review of a particular application, or in the case of a special public or other meeting for the purpose of reviewing a particular application, consultant fees may be recovered. Upon request, the applicant shall be provided with copies of any voucher for such professional consulting services as submitted to the Village. The applicant shall reimburse the Village for the cost of such professional consulting services in accordance with the procedures described in this Chapter 22. The payment of such fees shall be a condition of any approval and shall be set forth in any resolution of approval. Such fees shall be required in addition to any and all other fees required in connection with the review of the application as set forth in the Village Code or any Village fee schedule. An applicant may direct any questions relating to fees for reimbursement of professional consulting services to the Village Clerk, who shall refer the matter to the reviewing board.

C. Proof of Payment. Proof of payment of all professional consulting fees shall be obtained by the applicant from the Village Treasurer and presented to the board reviewing the

application. No building permit or certificate of occupancy shall be issued, nor shall any use or work be authorized under any resolution of approval, unless all professional consulting fees charged in connection with the applicant's project have been reimbursed to the Village.

D. Review by More Than One Board. In the event that an application is required to be reviewed by more than one board, then in such event and to the extent applicable, each such board shall use the same consultant, who shall in such case prepare one report providing the data, information and recommendations requested. In all instances, duplication of professional consulting reports shall be avoided whenever possible in order to minimize the cost of same to the applicant.

**§ 22-3. Initial Deposit/Suspension of Application Processing/Refund of Remaining Fees.**

At the time of submission of any application coming before any board, an initial deposit shall be required by the Village Board as set forth in a Village fee schedule, which may be amended from time-to-time, or if no such fee schedule or fee schedule item exists for such application, the applicant shall deposit such sum as is deemed necessary by the reviewing board based on its evaluation of the nature and complexity of the application. Such deposit shall be used as an advance against which withdrawals may be made to reimburse the Village for the cost of professional consulting services and the cost of publication of any special meeting notice and/or any special meeting stenographic service and/or any other special review costs actually incurred incident to a particular application. No application shall be considered complete for review purposes until such deposit is made in accordance in this Chapter 22. The Village shall provide applicants with periodic statements indicating the cost of professional consulting services and other costs paid out of the initial deposit or owing in the event the initial deposit has been depleted. If an initial deposit amount is depleted, the reviewing board may suspend its review of the application if any outstanding fees are not paid by the applicant within thirty (30) days of issuance of a request for additional payment. The Village Board, Design Review Board, Planning Board and Zoning Board of Appeals shall not be obligated to comply with any time periods for review of subdivisions, plot-line modifications, variances, architectural or design review and other or similar applications pursuant to state and/or local law if the applicant fails timely to pay the fees required under this Chapter 22. Any such time periods shall begin to accrue again upon receipt of required payment. After all

pertinent charges have been paid, and upon final approval or denial by the reviewing board or formal withdrawal of the application by the applicant, the Village shall refund to the applicant any funds remaining on deposit. Any such refund shall be made as soon as the Village is reasonably able to do **so**.

**§ 22-4. Collection of Fees.**

All fees required under this Chapter 22 shall be collected by the Village Clerk, or the clerk of the reviewing board, for prompt transmittal to the Village Clerk, for recording by the Village Treasurer.

**§ 22-5. Hardship Review.**

In the event that any fees or deposits required under this Chapter 22 create an economic or other hardship, application may be made to the Village Board, which is hereby authorized to modify such fee and/or deposit, in its legislative discretion, after appropriate public hearing, except that no such recovery of costs imposed under any local law implementing SEQRA may be waived or modified.

**§ 22-6. Statutory Authority; Supersession of State and Local Regulations.**

This Chapter is hereby adopted pursuant to Municipal Home Rule Law § 10(1)(i) and § 10(1)(ii)(a)(14) and Statute of Local Governments § 10(6). It is the intent of the Village Board, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), to supersede any laws incorporating relevant time limits and any inconsistent provision of Article 7 of the Village Law, §§ 7-706, 7-712, 7-712-a, 7-712-b, 7-725-a, 7-725-b, 7-728, 7-730, 7-732, 7-734, 7-736 and 7-738, as well as the Village Code in relationship to which and to the extent to which such provisions set forth specified time frames for certain reviewing board action.

**§ 22-7. Severability.**

If any provision of this Chapter 22 is ruled unconstitutional or invalid, such ruling shall not affect the validity of any other provision of said chapter or said chapter as a whole.

SECTION 3. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the office of the Secretary of State.

Dated: May 20, 2016

BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF SHOREHAM

BY: Cathy Donahue-Spier,  
Village Clerk

Effective Date: June 9, 2016