

Local Law Filing

(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.

County City Town Village
(Select one:)

of Augusta

Local Law No. 4 of the year 2021

A local law " Professional Fees "
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Augusta as follows:

** See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(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 2021 of the (County)(City)(Town)(Village) of Augusta was duly passed by the Town Board on February 17, 20 21, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

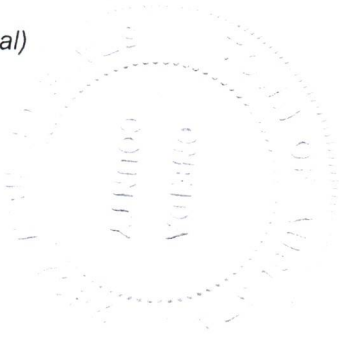
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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 _____ above.

Jon M. Furness
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *February 19, 2021*

(Seal)



Local Law No. 4 of 2021

Professional Fees

Section 1: Legislative findings, intent and purpose.

The Town of Augusta Town Board hereby finds and determines that in order to protect and safeguard the Town, its residents and their property, with respect to land, and improvements within the Town, the development and construction thereon and the uses, operations, businesses, trades, professions, and industries conducted thereon, all should be designed and constructed in a competent and workmanlike manner and developed, constructed and utilized in conformity with all applicable governmental laws, codes, rules and regulations, and where applicable to development, dedicated and conveyed to the Town in a legally sufficient manner. In order to ensure the forgoing, it is essential that the Town have available to it all necessary professional expertise, including relative to the review of legal documents and instruments, plans, designs, applications, and to make recommendations to the Code Enforcement Officer, Town Board, Planning Board, Zoning Board of Appeals, Attorney for the Town and Building Inspector. The Town takes great pride in the skill and professionalism of its land use and zoning boards, code enforcement and administrative staff; however from time to time, such boards and staff are called upon to review and evaluate matter and to consider and take actions outside the range of their training and/or expertise and/or requiring legal assistance and expertise. These situations may require the Town to seek out skills not possessed by such Town boards and Town officials but which are not required frequently enough to justify the cost of retaining such expertise and should not be borne by the taxpayers of the Town, but rather by those who seek to benefit or profit from the decisions of the Town, its boards, administrative staff and/or those who are legally responsible relative to efforts, actions and proceedings addressing violations and enforcement of such governmental laws, codes, rules, and regulations. Therefore, it is the intent of this law to establish a mechanism whereby the Town may utilize necessary expertise for such matters without imposing the cost on its taxpayers.

Section 2: Authority.

This law is enacted under the authority of Municipal Home Rule Law #10, Subdivision 1(ii)a(12) and d(13), and the Municipal Home Rule Law #22. To the extent that Town Law does not authorize the Town Board, Town Planning Board and/or Town Zoning board of Appeals to require the 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 site plan review, subdivision approval, for the approval, amendment or extension of a district and for the review and consideration of applications for variances, and special permit use under the Code of the Town of Augusta Zoning, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, to the extent that such fees, expenses and cost are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law to empower the Town to require such payments as a condition to such approvals.

Section 3: Definitions.

As used in this law, the following terms shall have the meaning indicated:

APPLICANT- Any person, firm, partnership, limited liability company(LLC), association, corporation, company or organization of any kind who or which requests the Code Enforcement Officer, Zoning Officer, or other issuer of building permit, certificates of completion, occupancy and compliance, or the Town Board, the Planning Board or the Zoning Board of Appeals to approve a municipal application.

CODE- The Code of the Town of Augusta consisting of its Local Laws.

DEVELOPER- Any person, firm, partnership, limited liability company(LLC), associations, corporation, company or organization of any kind who or which:

A) Constructs or proposes to construct one or more roads, drainage facilities/systems, utilities or parks within or in conjunction with a development with the intent to convey or dedicate the same to the Town.

B) Requests the Town to create a district.

C) Request the Town Planning Board to approve an application for subdivision or site plan review.

D) Request the Zoning board of Appeals to approve an application for a variance or special permit use.

DEVELOPMENT- Includes, but is not limited to, a subdivision, district, or construction

DISTRICT- Any special district under Town Law.

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.

ENFORCEMENT/VIOLATION EFFORTS- Any efforts, actions or proceedings pursuant to, and intending to address the enforcement or violations of any federal, New York State, or Oneida County law or the Town of Augusta Code commenced or initiated by, at the request of and under policies established by the Town of Augusta Town Board or required of the town by the United States, New York State, Oneida County or a regulatory body of any such level of government.

MUNICIPAL APPLICATION- An application or request, formal, informal, or otherwise relative to proposed development, construction, renovation, related and/or similar within the Town, including without limitation, application, or request for subdivision approval, site plan approval, area variance, use variance, special use permit, zone change(s), utility availability, capacity or connection, storm drainage or erosion and sedimentation (or similar permit) and any additional review for those as needed to comply with the New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, and regulations adopted pursuant thereto, and the Town Code as amended. The foregoing notwithstanding, professional fees incurred or to be incurred for routine applications for utility connections or building permits specifically covered under the Town Code shall not be considered municipal applications unless the same involve special, unusual or extraordinary conditions or circumstances as solely determined initially by the Code Enforcement Officer, and affirmed by the Town Board.

PARK- An area of land located within a development which is open to the public for active or passive recreation purposes

PLANNING BOARD- The Planning Board of the Town of Augusta.

SUBDIVISION- A division of land as defined in the Code of the Town of Augusta and its subdivision law.

TOWN- The Town of Augusta

TOWN BOARD- The Town Board of the Town of Augusta

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 or the Town in general

ZONING BOARD OF APPEALS- The Zoning Board of Appeals of the Town of Augusta.

Section 4: Retention of professional services; reimbursement by applicant.

A) The Town may hire any consultant and/or expert necessary to assist the Town in reviewing a municipal application or conduction of enforcement/violation efforts, including, but not limited to, scientific, technical, architectural or engineering consultants or legal counsel.

B) Except as may otherwise be expressly provided in the Town Code, if, prior to the completion of a review of a municipal application, the Town discovers the need to retain a consultant, and/or expert services, the applicant shall deposit with the Town funds sufficient to reimburse the Town for the reasonable costs of consultation and/or evaluation in connection with review of the application.

C) The amount of the initial deposit for municipal applications covered by this law shall be as determined by 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, which may be done on a case by case

basis if warranted by the circumstances of the particular application.

D) Upon receipt of such funds, the Town Supervisor shall cause the money to be placed in an account in the name of the Town and shall keep a separate record of all money so deposited and the name of the applicant and the project for which the sums were deposited. The balance, if any, upon payment of all services related to said deposit shall be returned to the applicant.

E) The Town's consultants and experts shall invoice the Town for services rendered in reviewing the application. The Town shall furnish a copy of each invoice received to the applicant upon receipt of the invoice by the Town.

F) The Town shall review and audit all invoices received and shall approve payment only of such fees as are reasonable in amount and necessarily incurred by the Town in connection with a review of a municipal application or conduct of enforcement/violation efforts. For purposes of the law, a fee is reasonable in amount if it bears a reasonable relationship to the average charge by such an expert to the Town of others for services performed in connection with the review of a project similar to that involved in the municipal application or the conduct of enforcement proceedings or actions similar to those intended in the consideration size and type of property use(s) of project involved and any special conditions or considerations as the Town may deem relevant in connection with the particular municipal application or enforcement /violation effort. The Town may also seek advise of other municipalities and of other experts in such field as it may deem appropriate at its discretion.

G) Contracts for the retention of experts shall be let pursuant to any applicable policy of the Town (if any) unless the contract is one that must be competitively bid or the service is preformed by a retained Attorney or Engineer of the Town or other retained expert under a general fee for a service or an hourly charge retainer agreement with the Town.

H) If at any time during or after the processing of the municipal application there shall be monies not equal to 1/3 of its initial deposit on hand to the credit of such applicant or developer to pay approved vouchers in full, or if it reasonably appears to the Town Board that such monies will be insufficient to meet vouchers yet to be submitted, the Town Board shall cause the applicant or developer to deposit additional sums as the Town Board deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

In the event that the applicant or developer fails to deposit such funds or such additional funds within a reasonable period of time as established by the Town Board, the Town Supervisor shall notify, the applicable, Town official or Chair of the Planning Board, the Zoning Board of Appeals and the Town Board of such failure, and a review by the appropriate board, officer or employee of the Town, shall cease until such monies are deposited.

I) After payment of all outstanding invoices, any funds held by the Town upon completion of a review of a municipal application shall be returned to the applicant.

J) The Town shall be entitled to recover reasonable expenses, attorney's fees, costs and disbursements incurred in the enforcement of any rights hereunder, including without limitation, the collection of professional fees owing to the Town by commencing an action or proceeding against an applicant who/which has failed to make any payment.

Section 5: Assessment of charges.

Upon resolution duly adopted the Town Board following a prior written notice of not less than 30 days(addressed to the applicant, individual(s) or entities subject of a municipal application or against whom enforcement/violation efforts have been conducted and the owner of the property subject of a municipal application of enforcement/violations efforts) advising such persons or entities of amounts owing to the Town for professional fees incurred hereunder, and providing such person(s) an opportunity to be heard at the Town Board meeting whereas such resolution is adopted, the Town may consider and make the determination(s) required in Section 3 hereof (if not previously made) and assess the property subject thereof with such costs in the same manner as with respect to property taxes, such that same may be collected and the lien of same enforced, in the same manner as liens for such taxes and charges. Such balance shall be added to the next Town tax bill but notice can also be sent to the owner of the property of the determination made at the hearing scheduled for such purpose.

Section 6: Exception.

Notwithstanding anything to the contrary contained in this section in relation to a municipal application, an applicant or developer shall not be required to reimburse the Town for any part of a fee incurred by the Town for services performed in connection with matters, including but not limited to those resulting from

complaints by third parties, as to which the Town Board determines that the applicant should have no responsibility or the particular conditions involved were beyond the reasonable control of the applicant, such determination to be solely within the Town Board's discretion.

Section 7: Provisions nonexclusive; incorporation by reference.

The deposit required by this law shall be in addition to any other fee as may be required by other laws, rules, regulations or ordinances of the Town, the County of Oneida, the State of New York or any other body having jurisdiction with respect to municipal applications and shall not be used to defray either the Town's general expenses for legal, engineering or professional consulting fees for the several boards of the Town or its general administration expense. Any such other provisions shall in addition be deemed to have incorporated therein by reference, subject to Section 4 hereof, the provisions of Section 4 hereof providing for the assessment of such charges on the property subject of the municipal application or enforcement/violation efforts.

Section 8: Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this law or the application thereof to other persons or circumstances. Further, in adjudging such invalid, illegal or unconstitutional provision, the court shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

Section 9: Effective Date.

This Local Law shall be effective upon filing with the Secretary of State.

Be it enacted this 17th day of February, 2021 by the Town Board of the Town of Augusta, Oneida County, New York, to be effective upon filing with the Secretary of State.

Suzanne Collins, Supervisor Suzanne M Collins

James Dowd, Councilman James W Dowd

Charles Peck, Councilman CP

Mark Russell, Councilman Mark Russell

Travis Wright, Councilman Travis Wright



ATTEST Sonya M. Furness
Sonya M. Furness, Town Clerk

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

March 2, 2021

Sonya M. Furness,
Town Clerk
185 N Main Street, PO Box 686
Oriskany Falls NY 13425

**RE: Town of Augusta, Local Law 2, 3, 4, 5 2021, filed on February 25,
2021**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**