

# Local Law Filing

NEW YORK STATE DEPARTMENT OF  
STATE  
41 STATE STREET, ALBANY, NY 12231

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**Town of** Little Falls

**Local Law No.** 1 **of the year 2021**

**A Local Law** Providing For The Use of and Reimbursement For Legal  
Engineering and Consulting Services

**Be it enacted by the** Town Board **of the**

**Town of** Little Falls, County of Herkimer as follows:

## **ARTICLE I. The Use of and Reimbursement for Legal Engineering and Consulting Services**

Section 1. Where the Town Board or Planning Board use the services of private engineers, attorney or other consultants for purposes of engineering, scientific land use planning, environmental or legal reviews of the adequacy or substantive details of applications, or issues raised during the course of review of such applications, or issues raised during the course of review of such applications for special permit approvals of this chapter or site plan approvals Subdivision of Land use or area variances, applications for parcels to accommodate site-specific land development proposals or otherwise, applications for permits to extract topsoil or natural resources or for any other ancillary land use or development permits or approvals required under the Town Laws as well as to assist in insuring or enforcing an applicant's compliance with the terms and conditions of all the aforementioned administrative and legislative permits or approvals, the applicant and landowner, if different, shall be jointly and severally responsible for payment of all the reasonable and necessary costs of such services. In no event shall that responsibility be greater than the actual cost to the Town of such engineering, legal or other consulting services.

Section 2. The Town Board or Planning Board through or with the assistance of the Town of Little Falls employees, will require advance periodic monetary deposits, to be held on account of the applicant or landowner, by the Town of Little Falls to secure the reimbursement of the Town's consultant expenses. The Town may make payments from the deposited funds for engineering, legal or consulting services, after audit and approval by the Town Board of itemized vouchers for such services. The Town shall supply copies of such vouchers to applicant and/or landowner, appropriately redacted where necessary to shield legally privileged communications between Town officers and employees and the Town's consultants.

Section 3. The Town Board shall review and audit all vouchers and shall approve

payment only of such engineering, legal and consulting expenses as are reasonable in amount and necessarily incurred by the Town in connection with the review and consideration of applications for land use or development approvals, or for the monitoring, inspection or enforcement of permits or approvals or the conditions attached thereto. For the purpose of this review and audit, a fee shall be “reasonable in amount” if it bears a reasonable relationship to the average charge by engineers, attorneys or other consultants to the Town for services performed in connection with similar applications and, in this regard, the Town Board may take into consideration the complexity, both legal and physical, of the project proposed, including the size, type, and number of buildings to be constructed, the amount of time to complete the project, the topography of the land on which such project is located, soil conditions, surface water, drainage facilities, utilities or parks to be constructed and special conditions or considerations as the Town Board may deem relevant. A fee or part thereof is “necessarily incurred” if it was charged by the engineer, attorney, or consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water run-off and other environmental factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town including receipt by the Town of good and proper title to dedicated highways and other facilities, the correction of defects arising during any post dedication maintenance period and the avoidance of claims and liability and such other interests as the Town board may deem relevant.

Section 4. The owner(s) of the subject real property, if different from the applicant, shall be jointly and severally responsible to reimburse the Town of Little Falls for funds expended to compensate for services rendered to the Town under this section by private engineers, attorneys or other consultants. In order for a land use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal and other consulting fees incurred by the Town. In the event of failure to reimburse the Town for such fees, the following shall apply:

- (1) The Town may seek recovery of reimbursed engineering, legal and consulting fees by action venued in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney’s fees expended by the Town in prosecuting such action.
- (2) Alternatively, and at the sole discretion of the Town, a default in reimbursement of such engineering, legal and consulting fees expended by the Town shall be remedied by charging such sums against the real property which is the subject of the land development application, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as town assessed taxes and shall be paid to the Town Supervisor, to be applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than thirty

(30) days after its mailing.

Section 5. The provisions of this local law shall apply to all engineering, legal or consulting fees incurred by the Town with regard to applications or matters pending on or after the effective date of this local law.

**Article II. Effective date**

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

ADOPTED: July 13, 2021

FILED BY STATE: July 3, 2021