

Chapter 87

FEES

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ARTICLE II

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[HISTORY: Adopted by the Town Board of the Town of Patterson: Art. I, 3-14-1990 as L.L. No. 5-1990. Amended as L.L. No. 6 -2000, Amended in its entirety on 1-24-2001 by L.L. No. 2-2001, Amended on 12-17-03 by L.L. No. 9-2003, (readopted 4-13-2005 by L.L. No. 9-2005) Amended in its entirety on 2-25-2009 by L.L. No. 3-2009; Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch.. 154.

ARTICLE I
Authority and Purpose; Applicability; Definitions

§ 87-1. Legislative Findings, Intent and Purpose.

A. The Town of Patterson incurs significant expenses in the review of land development by the Town Board, the Planning Board, the Zoning Board of Appeals and the office of the Code Enforcement Officer. Administrative costs include, but are not limited to, processing applications, consultations among municipal officers and officials regarding the facts and circumstances of the application, preparation of hearing notices, publication of hearing notices, preparation of affidavits of posting and publication, preparation and maintenance of official records regarding the application and municipal review of the application, testimony by municipal officials at public hearings, processing of resolutions and determinations, filing fees and miscellaneous services and disbursements. When these expenses are occasioned in connection with an appeal, application or petition made by an applicant to the town or an instrumentality of the town, then it is proper and in the public interest for the applicant to bear the cost of these expenses.

B. The Town Board further finds and determines that in order to protect and safeguard the Town of Patterson, its residents and their property, with respect to certain land developments within the Town

(1) Applications for land development should also be reviewed by individuals knowledgeable in the various elements of that development;

(2) All buildings, highways, drainage facilities, sanitary sewer facilities, other utilities and parks within said developments should be designed and constructed in a competent and workmanlike manner and in conformity with all applicable governmental codes, rules and regulations and dedicated and conveyed to the Town in a legally sufficient manner

(3) In order to assure the foregoing, it is essential for the Town to have competent engineers retained by the Town 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, sewer, other facilities and parks to be dedicated to the Town and to recommend their acceptance by the Town, to have competent attorneys retained by the Town to negotiate and draft appropriate agreements with developers, obtain, review and approve necessary securities, insurance and other legal documents, review proposed deeds and easements to assure the Town is obtaining good and proper title and to generally represent the Town with respect to legal disputes and issues with respect to developments, to have competent planners to ensure that land developments and zoning changes are designed in harmony with the surrounding environment, to ensure that the procedural requirements of State and local laws, rules and regulations are met, and to make recommendations to the Planning Board and Zoning Board of Appeals, and;

(4) The cost of retaining such competent engineers, attorneys and planners should ultimately be paid by those who seek to profit from such developments rather than from

general Town funds which are raised by assessments paid by taxpayers of the Town.

§ 87-2. Supersession Authority.

This chapter is enacted under the authority §10, Subdivision 1, Paragraph (ii), Subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law and Municipal Home Rule Law § 22. To the extent Town Law Article 16 including §§ 274-a, 274-b, 276, 277 and 278 do not authorize the Town Board, Town Planning Board, Town Zoning Board of Appeals, or the Building Department to require the reimbursement to the Town of legal, ~~and~~ engineering and planning expenses incurred by the Town in connection with the review and consideration of application for approval by the Town Board, Town Planning Board, or Town Zoning Board of Appeals, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, where such statutes do not authorize the deferral or withholding of such approvals in the event such expenses are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law, Article 16 including Sections 274-a, 274-b, 276, 277 and 278 to empower the Town to require such payment as a condition to such approvals.

§ 87-3. Definitions.

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

ADMINISTRATIVE FEE - The initial application fee submitted for the administrative costs for processing an application submitted to an instrumentality of the Town of Patterson as described in §87-1(A).

APPLICANT – Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town Board, Planning Board or Zoning Board of Appeals to approve a development.

DEVELOPER – Any person, firm, partnership, association, corporation, company or organization of any kind who or which constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development and to convey or dedicate same to the Town.

DEVELOPMENT – The alteration, changing, constructing on or subdividing a parcel of land.

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 said facilities may be constructed or installed in or in connection with a development.

ESCROW FUND - A sum of money deposited with the Town Supervisor for the payment of Professional Plan Review, or for the inspection of the installation of improvements associated with a site plan or subdivision approved by the Planning Board of the Town of Patterson.

FINAL APPROVAL - Final approval shall mean the endorsement of a final subdivision plat or site plan by the Planning Board, or the adoption of a resolution which approves, approves with conditions or denies an application pending before the Town Board or Zoning Board of Appeals.

HIGHWAY – The term “highway” included a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, overpass and underpass and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks in or in connection with a development.

PARK – An area of land located within a development which is open to the public and devoted to active or passive recreation.

PROFESSIONAL PLAN REVIEW - The review of a proposal to change, alter or subdivide a parcel of land including, the preparation of a subdivision plat in accordance with Chapter 138 of the Patterson Town Code, a Special Use Permit or Site Plan in accordance with Chapter 154 of the Patterson Town Code, the review of a request to amend the zoning code, the review of plans or structural drawing submitted to the Building Department or the review of any other land development proposal as may be requested by a Town Official, as conducted by an engineer, architect, attorney or planner employed or contracted by the Town to ensure its compliance with the policies enumerated in §87-1of this Local Law.

SEQRA - The State Environmental Quality Review Act including the rules and regulations promulgated by the New York State Department of Environmental Conservation under 6NYCRR Part 617.

SITE PLAN - A plan prepared pursuant to §154-79 showing the size, location, character, architectural features and suitability of all buildings and facilities related thereto including but not limited to method of access, walkways, parking, landscaping, stormwater facilities.

SUBDIVISION – A division of land into one or more lots pursuant to Town of Patterson Subdivision Code §138, and including any adjustment of property boundaries

TOWN – The Town of Patterson.

TOWN OFFICIAL - An elected or appointed individual that by reason of office, represents the Town of Patterson.

UTILITIES – All water, sanitary sewer, stormwater, gas, electric, telephone, cable television facilities and any easements or land through or over which said facilities maybe constructed or installed in or in connection with a development.

§ 87-4. Reimbursement of Fees and Expenses.

A. When an appeal, application or petition is made by an applicant to the town or an instrumentality of the town, the applicant shall pay a fee for the administration of the application.

In addition the applicant shall reimburse the Town of all reasonable costs for Professional Plan Review incurred by the Town in connection with the review and consideration of such appeal, application or petition, or for inspection of the installation of improvements associated with any application made to or approved by the Planning Board or Zoning Board of Appeals of the Town of Patterson. **[Amended 8-10-2011 by L.L. No. 6-2011]**

B. Unless otherwise specifically provided in this Local Law establishing fees, the administrative fees required pursuant to this Article shall be paid in advance and upon submission of an application; and the failure to submit the full payment required shall render the application incomplete.

C. Simultaneously with the filing of an application for approval of a development, and prior to the commencement of any construction of buildings, highways, drainage facilities, utilities or parks therein the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money (the Escrow Fund), as may be set from time to time by resolution of the Town Board, which sum shall be used to pay the costs incurred by the Town for Professional Plan Review as described in §87-3 of this local law, or for inspection of the installation of improvements associated with a site plan or subdivision approved by the Planning Board of the Town of Patterson.

D. Upon receipt of such sums, the Town Supervisor shall cause such monies to be placed in a separate non-interest bearing account in the name of the Town and shall keep a separate record of all such monies so deposited and the name of the applicant or developer and project for which such sums were deposited.

E. Upon receipt and approval by the Town Board of itemized vouchers for Professional Plan Review rendered on behalf of the Town, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant or developer at the same time such vouchers are submitted to the Town.

F. The Town Board shall review and audit all such vouchers and shall approve payment of only such Professional Plan Review fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments and the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town for services performed in connection with the approval or construction of a similar development and in this regard the Town Board may take into consideration the size, type and number of buildings to be constructed, the amount of time to complete the development, 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 as the Town Board may deem relevant; and a fee or part thereof is necessarily incurred if it was charged by the professional 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 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 and the avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

G. If at any time 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 Town Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, pursuant to §87-17 the Town Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses or anticipated expenses.

H. In the event that the applicant or developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify as applicable, the Chairman of the Planning Board, Zoning Board of Appeals, Town Board and/or Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate Board, officer or employee of the Town until such monies are deposited.

I. After final approval, and after payment of all approved vouchers submitted regarding such development, 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.

J. A developer who constructs, or proposes to construct, improvements as shown on an approved erosion and sediment control plan, subdivision, or site plan shall deposit with the Town an Inspection Fee as established pursuant to Article II Schedule of Fees, for the inspection of erosion and sediment control practices, and for any improvements shown on an approved erosion and sediment control plan, subdivision, or site plan.

K. The escrow fund 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, and shall not be used to offset the Town's general expenses of legal and engineering services for the several Boards of the Town, nor its general administration expenses.

§ 87-5. Exceptions.

Notwithstanding anything to the contrary contained in this local law, an applicant or developer shall not be required to reimburse the Town for any part of a legal or engineering 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 the applicant or developer had no responsibility or was beyond the reasonable control of the applicant or developer.

§ 87-6. Zoning Board of Appeals fees.

Fees shall be established for the following Zoning Board of Appeals matters:

A. Area variances.

- B. Use variances.
- C. Interpretations.
- D. Special Use Permits.
- E. General Appearance fee.
- F. Due to the increase in the administrative costs associated with reviewing certain applications, where an application has been submitted requesting approval of an activity that has already been commenced, or for a structure that has already been erected, the application fee shall be two times the regular application fee.

§ 87-7. Planning Board fees.

Fees shall be established for the following Planning Board matters:

- A. Site plan review.
- B. Minor subdivision applications:
 - (1) For two (2) lots.
 - (2) For three (3) lots.
 - (3) For four (4) lots.
- C. Major subdivision applications:
 - (1) For five (5) lots.
 - (2) For each additional lot.
- D. Site inspections.
- E. Recreation fees in lieu of parkland.
- F. Sign application review.
- G. Driveway waivers.
- H. Fill Permits

§ 87-8. Payment of expenses incurred by Town Board.

A. Whenever, in connection with an application or petition, a local law is necessary or appropriate to implement the benefit or relief sought or to regulate conditions occasioned by the granting of an approval or approvals, the total actual expenses incurred by the town in connection with the preparation and consideration of a proposed local law shall be borne by the applicant. The minimum fees established by resolution shall be paid by the applicant upon the earlier of the submission of a petition, if applicable, or prior to the endorsement of an approved subdivision plat or site plan or the issuance of any building permit or the filing of any applicable local law with the Secretary of State.

B. Fees shall be established for the following:

- (1) Zone change local law.
- (2) Miscellaneous local laws, including stop sign, speed limit and parking local laws, considered in connection with subdivision, site plan, special use permit and zoning amendments (other than zone changes).

§ 87-9. Code Enforcement Officer fees.

Fees shall be established for the following activities of the Code Enforcement Officer:

A. Building permits:

- (1) Residential.
- (2) Other uses.

B. Certificates of occupancy:

- (1) Residential.
- (2) Other uses.
- (3) Temporary.
- (4) Permanent.

C. Fire prevention and safety inspections:

- (1) For buildings containing more than two (2) dwelling units.
- (2) For nonresidential buildings.

D. Floodplain development permits.

§ 87-10. Freshwater wetland application and permit fees.

Fees shall be established for freshwater wetlands applications and/ or permit fees.

§ 87-11. Approval extensions.

Whenever an extension is necessary to prevent an approval from lapsing or becoming otherwise void, the first such request for an extension shall be processed at no charge, and the second and each subsequent request for an extension shall be processed only upon prior payment of fees established by resolution of the Town Board.

§ 87-12. No abatement for additional applications.

No abatement of fees shall be granted, unless herein specifically provided, for as a result of an applicant seeking more than one (1) approval or submitting more than one (1) application in connection with a particular project.

§ 87-13. SEQRA compliance required.

Whenever environmental analysis is required pursuant to the provisions of the State Environmental Quality Review Act (SEQRA) or any local law implementing SEQRA, all expenses relating to the environmental review shall be in a manner consistent with 6 NYCRR Part 617.

§ 87-14. Amendments to an approved plan.

Whenever an application is submitted to amend an approved plan or permit, it shall be considered a new application and the fees specified pursuant to the Article shall apply; provided, however, that in the case of an amendment to a subdivision plat, the fees shall be based on the number of lots modified or affected by the amendment, provided further that in no event shall the fees due on a subdivision amendment application be less than the minimum provided for a minor or major subdivision, respectively.

§ 87-15. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State and shall effect all applications that have not received a “final” approval or a “conditional final” approval at the time this Local Law is adopted by the Town Board of the Town of Patterson except that any administrative application fees received for the processing of an application deemed

complete by the reviewing Board shall be considered the required application fee.

ARTICLE II Schedule of Fees

§ 87-16. Establishment of Fees.

The fees established pursuant to this Chapter shall be set from time to time by resolution of the Town Board and shall be set forth in the Patterson Schedule of Fees.

§87-17 Professional Plan Review Fees.

A. Pursuant to §87-4(C) a developer shall deposit with the Town Supervisor, simultaneously with the filing of an application as listed below, a sum of money (the Escrow Fund), which sum shall be used to pay the costs incurred by the Town for Professional Plan Review as set from time to time by resolution of the Town Board.

B. After a developer has deposited a sum of money with the Town Supervisor, upon the balance of that fund being equal to or less than twenty (20%) percent of the original amount deposited, the developer shall deposit such additional funds with the Town Supervisor so as to equal the amount of the original deposit. Failure to deposit such funds within thirty (30) days of notice being provided to the Applicant:

- (1) Where an application has been submitted to the Planning Board or Zoning Board of Appeals: shall render the Application incomplete. If such Application is deemed incomplete, the Board conducting the review may in the discretion of the Board suspend the review of the application, or deny the Application.
- (2) Where an application has been submitted to the Planning Board or Zoning Board of Appeals, and a conditional approval has been issued: No extension of said approval shall be granted unless the developer is in compliance with this Section.
- (3) Where a building permit has been issued: The Supervisor may direct that either a stop work order be issued, a violation pursuant to this Chapter be issued, or both.

C. The amount charged for the review of a “draft” or “final” environmental impact statement shall be subject to the limitations of 6 NYCRR §617.13.

§ 87-18. Penalties for offenses.

A. Any person or corporation, whether as owner, lessee, principal, agent, employee or

otherwise, which violates any of the provisions of this chapter or permits any such violation or fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) not more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof shall be deemed misdemeanors. Each days continued violation shall constitute a separate additional violation.