

**(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 of New Paltz**

~~Village~~

**Local Law No. \_\_\_\_\_ of the year 2017**

A local law TO Add a New Article VIII, "Assessments for the Collection of Fees and Costs" to Chapter 127, "Taxation" of the Code of the Town of New Paltz"

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

~~County~~

~~City~~

**Town of New Paltz as follows:**

~~Village~~

**Section 1. TITLE**

The Code of the Town of New Paltz is hereby amended to add a new Article VIII, "Assessments for Collection of Fees and Costs" to Chapter 127, "Taxation" to read as follows:

**§127-21. Legislative findings.**

The Town Board finds that certain costs incurred by the Town, and fees and penalties owed to the Town, related to individual properties remain unpaid, unreimbursed or uncollected due to the difficulty and delay of collection, the legal costs of collection and the unavailability of the property owner to local or state court jurisdiction. The difficulty and inability to collect fees, costs, and expenses incurred on behalf of a specific property owner to bring the property into compliance with applicable laws or regulations, or penalties lawfully imposed by order of a court of competent jurisdiction in order to compel a property owner to do so, adversely affects the public fiscally and unnecessarily and unfairly burdens the taxpayers of the Town with costs and expenses incurred for the benefit of individual properties or because of the failure of the owner or responsible party of individual properties to comply with applicable laws and regulations.

The Town Board further finds that:

1. Village Law § 4-414 and § 5-518 provide a mechanism for assessment of such costs by

villages, but that the Town Law does not contain the analogous authority and procedure.

2. Municipal Home Rule Law § 10(1)(ii)(a)(9-a) provides that the Town may adopt a local law related to the fixing, levy, collection and administration of local government rentals, charges, rates or fees, penalties and rates of interest thereon, liens on local property in connection therewith and charges thereon.

3. The Town may, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), adopt a local law amending or superseding the Town Law, notwithstanding it is a general law, unless the Legislature has expressly prohibited the adoption of such a local law.

4. The Legislature has not expressly or implicitly prohibited a town from adopting a local law similar to Village Law § 4-414 and § 5-518, or this local law.

5. It is the intent of the Town Board that this local law be effective as to outstanding costs incurred by the Town to review any pending application that was made by the owner of real property, which costs are unpaid at the time of the adoption of this local law, and to unpaid costs incurred in connection with all future applications, whether made by, or consented to, the owner of real property, but not to unpaid costs incurred by the Town prior to the adoption of this local law to review any application where the owner only consented to the application.

#### **§ 127-17 Assessments for required work performed by Town.**

1. Whenever an owner of real property or responsible party is required by general, special or local law, or by any agreement or stipulation with the Town, or by any court of competent jurisdiction, in the interest of public safety, health or general welfare, to make an improvement to the property or perform any work or act on the property, or to pay any fee, cost, expense or penalty related to the property, and such owner or responsible party shall fail to make the improvement or perform the work or act required, or to pay the fee, cost, expense or penalty, the Town Board may cause such improvement, work or act to be done on such property, by contract or otherwise, and thereafter furnish the property owner of record a statement of the audited costs paid by the Town and a demand for payment of such costs by a date certain, which shall be the demand date.

2. When the owner of record of real property has made, or consented to the making of, any application for permits or approvals related to the use of real property, and the Town has thereafter duly incurred reasonable and necessary fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, for the review of such application, and escrowed funds are not available to reimburse the Town for its payment of such fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, then the Town shall provide to the owner of record and to any other or additional responsible party a statement of the audited costs paid by the Town together with a demand for payment of same by a date certain, which shall be the demand date.

3. In the event the fees, costs, penalties or other expenses referred to in subdivision 1 and subdivision 2 remain unpaid after the demand date, the Town Board may determine that such fees, costs, penalties or other expenses duly paid by the Town and for which the Town has not been reimbursed shall be assessed, levied and collected as provided herein.

## **§ 127-18 Procedure.**

1. Mailing of Statement and Demand for Payment. (a) Any amount which may be assessed against the property of an owner pursuant to the provisions of subdivision 1 of Section 127-17 of this article shall, in the first instance, be billed to the property owner by First Class U.S. mail addressed to the owner as identified by the assessment records of the Town; (b) Any amount which may be assessed against the property of an owner pursuant to the provisions of subdivision 2 of Section 127-17 of this article shall be billed to an applicant that is not the owner for payment, with a copy of the billing statement sent to the owner by First Class U.S. mail together with a notice that the owner is ultimately responsible for any unpaid bill. The records of the Town shall be deemed sufficient to verify such mailing address.

2. Fee Dispute. The amount so billed shall be deemed presumptively valid, but may be challenged by the property owner. Any such challenge shall be made by submitting a written request that the Town Board audit and review the billed costs, which request shall be submitted to the Town Clerk no later than 65 days after the date of mailing of the bill. Such request shall specify in detail the basis of the challenge. Upon review of such challenge, the Town Board shall issue a written decision. The property owner may seek review of the decision of the Town Board by bringing a proceeding to review the decision of the Town Board in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal, in whole or in part. Such proceeding must be commenced within thirty (30) days next following the filing of the decision in the office of the Town Clerk.

3. Levy Procedures. The Town Supervisor shall include, with the Supervisor's proposed budget, the total amount of such monies which may be assessed against individual properties in accordance with this article. The Town Clerk shall prepare a roll of such amounts specifying the individual properties against which the amount shall be assessed, together with the name and address of the property owner as shown on the most current Town assessment roll. The total amount shall be included with the final budget of the Town. The Town Board shall approve the roll of individual assessments and the same shall be assessed and levied against the properties at the same time as Town taxes.

4. As an alternative to the procedure set forth in subdivision 1, above, if an assessment against a particular property is not yet final in accordance with the procedure set forth in subdivision 1, above, the Town may mail notice of the preparation of the individual assessment roll to such particular property owner. Such notice shall be mailed not less than twenty (20) days prior to a hearing on the roll to be held at the time of the preliminary budget hearing, or such other date as the Town Board shall specify. The Town Board, following such hearing, shall approve, modify, or reject any assessment which was challenged at such hearing. The decision of the Town Board shall be final, but subject to review as set forth in subdivision 2, above.

## **§ 127-19 Administrative fees and interest.**

All amounts which are assessed in accordance with the procedure herein shall have added thereto, as an administrative fee, an amount equal to *ten per centum* (10%) of the original amount billed or noticed. Unpaid assessments shall accrue interest and penalties at the same rate and in the same manner as unpaid real property taxes.

**Section 2. SEVERABILITY**

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to the part, provision or 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 local law or the application thereof to other person or circumstances and the Town Board hereby declares that it would not have enacted this local law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

**Section 3. EFFECT ON OTHER LAWS**

To the extent that this local law may be found to be inconsistent with any provision of the New York State Town Law or any special law, the Town Board declares that it is its intent that this local law is adopted pursuant to the provisions of Municipal Home Rule Law § 10(1)(ii)(a)(9-a) and shall supercede any such inconsistent provision in order to effectuate the purposes of this local law.

**Section 4. EFFECTIVE DATE**

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