Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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(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 of STILLWATER
- ☐ Town
- ☒ Village

Local Law No. 1 **of the year 20** 06

A local law requiring applicants and developers of residential or commercial parks or estates to reimburse the village for legal and engineering fees incurred in such planned development.
(Insert Title)

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

- ☐ County
- ☐ City of STILLWATER **as follows:**
- ☐ Town
- ☒ Village

(Delete this line of text and enter text of local law here)

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

Local Law No. 1
2006
Village of Stillwater

SECTION 1. LEGISLATIVE FINDINGS, INTENT AND PURPOSE.

The Village Board of Trustees hereby finds and determines that in order to protect and safeguard the Village of Stillwater, its residents and their property, with respect to certain land development within the Village, all planned development of residential or commercial parks or estates should be designed and constructed in a competent and workmanlike manner and in conformity with all applicable governmental codes, rules and regulations, and subject to review and approval by the Village in a legally sufficient manner; and that in order to assure the foregoing, it is essential for the Village to have competent engineers retained by the Village to review and approve development plans and designs, to make recommendations to the Village Board of Trustees, to inspect the construction of proposed buildings, streets, drainage systems, water and sewer lines, and other facilities or improvements, and to recommend their acceptance by the Village; and to have competent attorneys retained by the Village to review, draft and negotiate appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed contracts, deeds and easements, and to generally represent the Village with respect to land development legal matters and disputes; and that the cost of retaining such competent engineers and attorneys should ultimately be paid by those who seek to profit from such development rather than from general Village funds which are raised by assessments paid by taxpayers of the Village.

This local law is enacted under the authority of subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law Section 10(1)(ii) and Municipal Home Rule Law Section 22. To the extent Village Law Sections 7-725, 7-728 and 7-730 do not authorize the Village Board to require the reimbursement to the Village of legal and engineering expenses incurred by the Village in connection with the review and consideration of applications for planned development of residential or commercial parks or estates under the Village's local laws, it is the expressed intent of the Village Board of Trustees to change and supersede such statutes. More particularly, such statutes do not authorize the deferral or withholding of such approvals in the event such expenses are not paid to the Village. It is the expressed intent of the Village Board to change and supersede Village Law, Sections 7-725, 7-728 and 7-730 to empower the Village to require such payment as a condition to such approvals.

SECTION 2. DEFINITIONS.

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

APPLICANT – Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Village Board to approve a residential or commercial park or estate.

DEVELOPER – Any person, firm, partnership, association, corporation, company or organization of any kind who is the legal or beneficial owner or owners of all the land proposed to be included in a residential or commercial park or estate.

RESIDENTIAL PARK OR ESTATE – Any contiguous area of land upon which a developer proposes to build or modify more than one new residential dwelling.

COMMERCIAL PARK OR ESTATE – Any newly constructed sites or existing sites to be modified for commercial or industrial use.

DEVELOPMENT PERMIT – Any permit issued by the Village Board of Trustees under the provisions of Village Local Law No. 4 of the year 1994 relating to site development of a residential or commercial park or estate within the Village of Stillwater.

VILLAGE – The Village of Stillwater.

VILLAGE BOARD – The Board of Trustees of the Village of Stillwater.

SECTION 3. REIMBURSEMENT OF FEES AND EXPENSES.

An applicant who seeks approval of a residential or commercial park or estate shall reimburse the Village of all reasonable and necessary legal and engineering expenses incurred by the Village in connection with the review and consideration of such residential or commercial park or estate.

A developer of a residential or commercial park or estate shall reimburse the Village for all reasonable and necessary legal and engineering expenses incurred by the Village in connection with the review, inspection and acceptance by the Village of the construction of buildings, streets, drainage systems, water and sewer lines, and other facilities or improvements of the residential or commercial park or estate.

SECTION 4. EXCEPTIONS.

Notwithstanding anything to the contrary contained in this local law, an applicant or developer shall not be required to reimburse the Village for any part of a legal or engineering fee incurred by the Village for services performed in connection with matters, including but not limited to those resulting from complaints by third parties, as to which the Village Board determines the applicant or developer had no responsibility or was beyond the reasonable control of the applicant or developer.

SECTION 5. DEPOSIT OF FUNDS AND PAYMENTS OF FEES.

A. Simultaneously with the filing of an application for approval of a residential or commercial park or estate, and prior to the commencement of any construction or modification of buildings, streets, drainage systems, water and sewer lines, and other facilities or improvements therein, the applicant or developer, as the case may be, shall deposit with the Village Mayor a sum of money, as determined in Section 6 of this local law, which sum shall be used to pay the costs incurred by the Village for engineering and legal services as described in Section 3 of this local law.

B. Upon receipt of such sums, the Village Mayor shall cause such monies to be placed in a separate non-interest bearing account of the Village 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.

C. Upon receipt and approval by the Village Board of itemized vouchers from an engineer and/or attorney for services rendered on behalf of the Village pertaining to the residential or commercial park or estate, the Village Mayor 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 Village.

D. The Village Board shall review and audit all such vouchers and shall approve payment of only such engineering and legal fees as are reasonable in amount and necessarily incurred by the Village in connection with the review, consideration and approval of the residential or commercial park or estate, and the inspection and acceptance of buildings, streets, drainage systems, water and sewer lines, and other facilities or improvements constructed therein. 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 Village for services performed in connection with the approval or construction of a similar residential or commercial park or estate, and in this regard the Village Board may take into consideration the size, type and number of buildings, streets, drainage systems, water and sewer lines, and other facilities or improvements to be constructed, the amount of time to complete the construction, the topography of the land and existing soil, water, and other physical or environmental conditions, the nature and extent of such facilities and improvements to be constructed, and any special conditions or considerations as the Village Board may deem relevant; and a fee or part thereof is necessarily incurred if it was charged by the engineer of attorney for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Village, protect public or private property from damage, assure proper and timely construction, protect the legal interests of the Village including, including the avoidance of claims and liability, and such other interests as the Village Board may deem relevant.

E. If at any time during or after the processing of such application or in the review, inspection or acceptance of any part of the construction of a residential or commercial park or estate, 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 Village Mayor that such monies will be insufficient to meet vouchers yet to be submitted, the Village Mayor shall cause the applicant or developer to deposit additional sums as the Mayor deems necessary or advisable in order to meet such expenses or anticipated expenses.

F. In the event that the applicant or developer fails to deposit such funds or such additional funds, the Village Mayor shall notify as applicable, the Village Board and/or Village'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 Village until such monies are deposited.

G. After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any residential or commercial park or estate, 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.

SECTION 6. DEPOSIT AMOUNTS.

The amount of the initial deposit for the engineering and attorney fees covered by this local law shall be as set forth in a schedule of deposits established from time to time, by resolution of the Village Board. Said schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution.

SECTION 7. APPLICATION FEES.

The deposits 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 Village, and shall not be used to offset the Village's general expenses of legal and engineering services, nor its general administration expenses.

SECTION 8. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

SECTION 9. EFFECTIVE DATE.

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

(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. 1 of 20 06 of the (~~County~~)(~~City~~)(~~Town~~)(Village) of Stillwater was duly passed by the Board of Trustees on February 21 20 06, in accordance with the applicable
(Name of Legislative Body)
provisions of law.

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)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20 _____, in accordance w ith the applicable provisions of law.

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)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20 _____.
(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)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20 _____. Such local
(Elective Chief Executive Officer)*
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.

* 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 1, above.

Mary L Dartal
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 2-22-06

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Saratoga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Dreyer Boyajian LLP
Signature

Attorneys for the Village
Title

County
City of
Town
Village

Stillwater

Date: February 21, 2006