

LOCAL LAW 2 OF THE YEAR 2014

BE IT ENACTED BY THE VILLAGE BOARD OF THE VILLAGE OF SOUTH BLOOMING GROVE AS FOLLOWS:

Section 1 .

Amended Local Law

- 1.1 An amended local law entitled “Taxpayer Protection Act” to amend and replace the existing Chapter 240 of the Village Code of the Village of South Blooming Grove entitled Taxpayer Protection Act to read as follows:

CHAPTER 240. TAXPAYER PROTECTION ACT

§ 240-1. Title and Authority.

This Local Law shall be known as the Village of South Blooming Grove (“Village”) “Taxpayers Protection Act.” This Law involves the allocation and payment of costs and expenses incurred in the Village when reviewing certain land use matters. It is adopted pursuant to the Municipal Home Rule Law.

§ 240-2. Purpose

Responsible government is reflected in responsible growth within a responsible tax base. Where there are municipal expenses that are non-general in nature as well as specific to a land use matter, the specific applicant seeking certain permits or approvals should be responsible for payment of those specific or others non-general expenses incurred by the Village that would otherwise be paid by the taxpaying public. To minimize the burden of government to the Village taxpayers from such costs, expenses or other charges that the Village incurs in specifically reviewing any applications or petitions or otherwise enforcing the rights of the Village, all such specific and non-general costs and expenses should be paid by the applicant (or other person or entity responsible involved) in all situations except applications or petitions for matters involving the construction of a one or two-family residence only.

§ 240-3. Application of Law.

Any and all such specific and non-general costs or expenses incurred by the Village in reviewing any application or petition for any zone change, special permit, license, franchise agreement, site plan, subdivision, variance, amendments to any approved map or tax map or text of the Village Code, as well as any other submissions to the Village Board of Trustees, the Village Zoning Board of Appeals or Village Planning Board or CDRC or otherwise enforcing the rights of the Village regarding a specific applicant or property owner which require the use or employment of Village Counsel, Special Legal Counsel, Bond Counsel, Transactional Counsel or other legal advice or representation, planning consultants, zoning consultants, engineers, experts, accountants, appraisers or other professionals or persons that may be deemed reasonably

necessary by the Village to review, act upon or otherwise provide advice on any such matter shall be charged to and paid solely by the applicant or petitioner as well as property owner involved or other person seeking relief or otherwise responsible to the Village that makes such specific and non-general action or review by the Village appropriate or necessary. Any such costs paid or incurred by the Village that are reasonable and customary in the County of Orange regarding the foregoing shall be charged to and paid by the applicant as well as property owner involved provided the applicant as well as property owner involved is seeking a benefit or other relief or approval from the Village and said costs are necessary expenditures, and not expenditures for the convenience of a Board in fulfillment of its own decision-making responsibilities. Said legal cost shall be reasonable in amount and shall not exceed five (5%) percent of the cost of the fair market value of the estimated cost of construction or the infrastructure and other site improvements involved in said application. The payment of such costs shall be deducted from an escrow account to be established for such application in amount determined by the Village in accordance with the Village's fee schedule or as determined by Village Board of Trustees Resolution. Such escrow account must be maintained in an amount sufficient to pay such fees or costs at the time they are incurred and must be replenished as directed by the Village.

§ 240-4. Appeal Rights.

The person or entity required to pay said costs pursuant to this Local Law has a right to contest any obligation to pay any or all of such costs or fees by notifying the Village in writing within 30 days of being advised of such cost or the obligation to pay. The Village shall properly supply written documentation to the person or entity from whom such costs are sought to be paid. That person or entity has thirty (30) days from the date of transmittal of such documentation to object in writing to part or all of the costs or fees sought to be paid to the Village. If within that thirty (30) day period of time the entity or person objects to payment of some or all of the cost or fees to be imposed, the person or entity shall file in writing a detailed appeal to the Village Board of Trustees specifying the basis for any objection to said payment. Within ninety (90) days of the date of receipt of the appeal, the Village Board of Trustees shall determine the appeal and decide what costs or fees, if any, shall be paid by the person or entity making the appeal. In the event that the Village Board of Trustees requires payment of some or all of the costs or fees to be imposed, the person or entity shall have the right to file an appeal to the Supreme Court for the County of Orange pursuant to Article 78 to challenge any such determination by the Village Board. Where a person or entity objects to any payment by the filing of an Article 78 proceeding, such amount shall remain in, but not be deducted from escrow until such time as the Supreme Court for the County of Orange makes a determination regarding the same, if such an Article 78 proceeding is brought by the person or entity regarding said costs. In the event the escrow is insufficient to cover any disputed amount, the applicant must replenish the escrow account with an amount sufficient to cover the disputed expense (in addition to any other ongoing expenses) until such dispute is resolved or otherwise determined by the Supreme Court for the County of Orange. After any review by the Orange County Supreme Court, the applicant or other entity shall have a right to pursue an appeal to the Appellate Division, Second Department. Notwithstanding the same, the amount determined to be due from the applicant by the Orange County Supreme Court shall be deducted from escrow, or paid by the applicant if the

escrow is insufficient, unless a stay from a Court of competent jurisdiction is issued restraining the Village from regarding making such payment.

§ 240-5. Severability.

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

§ 240-6. Additional Rights of Village.

Nothing herein shall diminish or eliminate the right of the Village to obtain reimbursement of costs or expenses as provided for in any other law, rule or regulation.

§ 240-7. Fee Agreements

Nothing herein shall prohibit the Village and any applicant from entering into an agreement as to the payment of professional fees where such application is unique or otherwise different and where the amount of an escrow for payment of reasonable costs may be difficult to ascertain. If the parties do not mutually assent to a written agreement concerning such fees in said situation, then provisions of the this local law shall control.

§ 240-8. Effective Date.

This Local Law shall take effect upon filing with the Secretary of State and shall apply to all applications or matters for which final approvals have not already been granted by the Village.

Section 2.

SEQRA

Enactment of this local law constitutes the adoption of regulations, policies, procedures and local legislative decisions in connection with routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment within the meaning of 6 NYCRR section 617.5 (C) (20) and (27).

Dated: August 11, 2014
South Blooming Grove, New York