

CHAPTER 23: RECOVERY OF TOWN COSTS AND EXPENSES

23.01. Title.

This chapter is entitled "Recovery of Town Costs and Expenses."

23.02. General Provisions.

In addition to any other fees required to be paid in conjunction with the filing of an application requesting any consideration on the part of the Town Board and/or the Plan Commission to establish or modify any use of land within the Town, including, but not limited to: annexations; subdivision, including plat approval; developer agreements; utility cost agreements; conditional use permits; rezones; and all contracts or agreements related to any of the foregoing, the person, partnership, or entity requesting such consideration (hereinafter referred to as the "Applicant") shall compensate the Town for all costs and expenses exceeding \$250.00 that the Town incurs in the consideration of any such application or request. The obligation to compensate the Town for its costs and expenses shall extend to presubmission costs and expenses arising from submissions to or discussions with the Town or its representatives which precede an application to the Town, if any.

23.03. Applicant Certificate.

Before the Town shall incur any costs or expense in consideration of any application as described in this chapter, the Applicant shall sign an acknowledgment and certificate, on a form to be made available by the Town Clerk, stating the Applicant's responsibility for all Town costs and expenses exceeding \$250.00 directly or indirectly related to the Applicant's request. The original of said acknowledgment and certificate shall be kept on file with the Town Clerk. A copy shall be given to the Applicant at the time of signing.

23.04. Costs Recoverable.

All costs exceeding \$250.00 incurred by the Town in the consideration of any request described in Section 23.02, above, shall be recoverable, including, without limitation by enumeration, the following:

- A. All professional and technical consultant services and fees retained by the Town and rendered in review of any application, including, but not limited to, the Town Attorney or any other professional or expert hired by the Town for purposes of review of the application or presubmission request.
- B. Legal publication costs.
- C. Court reporter costs, as deemed necessary by the Town.

- D. Copy reproduction.
- E. Postage.
- F. Telephone charges.
- G. Fees and costs incurred by the Town Building Inspector.
- H. Document recordation (if required).
- I. Any other cost or expense incurred by the Town.

23.05. Notice and Billing of Costs.

A. **Advance Notice of Anticipated Costs.** The Town Clerk shall notify the Applicant if the Town Clerk anticipates that the costs to review Applicant's request will exceed \$250.00. Such notice shall be provided at the time the Applicant's request is made or at such time thereafter as the Town Clerk believes notice should be given. Such notice need not be in writing. Failure of the Town Clerk to provide such notice shall not alter the obligations of any Applicant as set forth in this Chapter 23.

B. **Billing of Costs.** The Town Clerk shall, on a monthly basis, bill all costs recoverable under this chapter to the Applicant, which costs shall be paid by the Applicant within 30 days of the transmission or mailing of the bill. The Town Clerk may, at any time, require an Applicant to submit an advance deposit or continuing advance deposits against future billings by the Town for the recovery of costs provided by this chapter. Surplus deposits shall be returned to the Applicant at the conclusion of the project if such deposits exceed the amount of billings for recoverable costs. Any billed costs from the Town unpaid at the expiration of said 30-day period shall bear interest at the rate of 18 percent per annum.

23.06. Condition of All Applications.

Notwithstanding anything in the ordinances to the contrary, payment in full of all recoverable costs pursuant to this chapter shall be a precondition to the final approval of any application as well as the issuance of any building or construction permits related to such application. This precondition shall extend to any Town Board request for an advance deposit against future billings for recoverable costs as called for herein.

23.07. Enforcement.

In addition to any provision for enforcement contained in the ordinances, in the event the Town is not paid all recoverable costs as called for herein, the Town shall be entitled to recover all actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees, and all other costs or expenses incurred by the Town in the

prosecution of a violation of this chapter, regardless of whether the Town prevails in such prosecution or not, or whether an action is filed or not.

23.08. Fees.

In addition to any fees called for herein, a subdivider shall, in the course of submitting any land division for presubmission consideration or for review and action by the Town, at all times comply with the provisions of Section 23.02, above, related to recovery of Town costs and expenses.

23.09. Severability.

In the event any section, clause, paragraph, or phrase of this chapter is deemed to be wholly or partially unenforceable by a court of law in a competent jurisdiction, the remaining sections of the ordinance shall remain in full force and effect.