

Supervisor James Schmitt opened the Regular meeting of the Town Board of the Town of Pawling at 7:05 PM July 10, 2019 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen Johnson, McCarthy, DeRosa, McGrath and approximately 25 interested citizens.

JESSICA DICKINSON/RECREATION DIRECTOR

The Board entertained a presentation by Jessica Dickinson, Recreation Director. Ms. Dickinson said this coming Saturday is Community Day and she was very excited about it. She has done a lot of advertising on social media, and also used flyers and signs. Community Day will be family friendly and will begin at 1 PM to 9 PM, with open swimming and vendors beginning at 1 PM. The adult Triathlon will take place at 9 AM and the child Triathlon will take place at noon. There will be fireworks at 9 PM. There will be musical acts at 2 PM, 3 PM, 4 PM and at 6 PM Music by the Lake. Residents and nonresidents are urged to attend. She urged everyone to come and enjoy themselves. Regarding camp, there are 115 children enrolled in this session.

Councilman DeRosa felt more signs should be placed in Holmes in order to alert Holmes residents of this event.

Ms. Dickinson said she would try to include the Holmes area more.

MINUTES

Supervisor Schmitt made a motion to accept the minutes of June 3, 2019, seconded by Councilman McGrath and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “ABSTAINED”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

Supervisor Schmitt made a motion to accept the minutes of June 5, 2019, seconded by Councilman DeRosa, motion passed unanimously.

Supervisor Schmitt made a motion to accept the minutes of June 12, 2019, seconded by Councilman Johnson, motion passed unanimously.

NON CONSENT AGENDA

Resolution 2019082 Payment of Bills for the Town of Pawling

Whereas, the Town of Pawling Bookkeeper has reviewed and prepared the vouchers and has offered them for review, and

Whereas, the vouchers have been approved in accordance with the Town of Pawling policy, and

Whereas, the vouchers have been numbered 20190804 through 20190935, now therefore, be it

Resolved, that the Pawling Town Board hereby accepts the vouchers as prepared and on the recommendation of the Bookkeeper and hereby authorizes payment of said vouchers for the Town of Pawling on this date in the amount of \$424,522.85.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilman McGrath “AYE”
Supervisor Schmitt – “AYE”

**Resolution 2019083
Billing for Pawling Water District #2**

Whereas, Pawling Water District #2 bills need to be approved by the Pawling Town Board, and,

Whereas, the bills have been prepared and submitted in the amount of \$13,960.60 for the period of April 1, 2019 through June 30, 2019 by the Water District Clerk, now therefore, be it

Resolved, that the Pawling Town Board hereby accepts the billing as recommended for Pawling Water District #2.

MOTION: Councilman Johnson
SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilman McGrath “AYE”
Supervisor Schmitt – “AYE”

**Resolution 2019084
Laberge Group Contract for Route 22 Sewer Map, Plan & Report**

Whereas, the Town Board of the Town of Pawling has requested that the Laberge Group prepare a Map, Plan & Report for extending the sewer line on Route 22 south of Pawling Village, and

Whereas, the contract for the Map, Plan & Report with the Laberge Group has been reviewed by the Town Attorney, and

Whereas, the Town Board of the Town of Pawling has reviewed the contract and is agreeable to the terms set forth therein, therefore, be it

Resolved, that the Town Supervisor is authorized and directed to execute any and all documentation necessary to give effect to this resolution.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilman McGrath “AYE”
Supervisor Schmitt – “AYE”

Resolution 2019085
Approval of Highway Department Truck Purchase

Whereas, the Town Highway Superintendent has recommended the purchase of two (2) new ten wheeler trucks for the Highway Department; and

Whereas, the Town Board has been provided with a proposal for the purchase of two (2) 2019 114SD Henderson Tandem Conventional Chassis with cross conveyers, plows and leveling wings from New York Freightliner pursuant to a contract with the County of New York at a cost of \$237,728.50 for each truck, a copy of which proposal is annexed hereto; and

Whereas, Section 103(16) of the General Municipal Law exempts from competitive bidding purchase contracts for apparatus, materials, equipment and supplies, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district; and

Whereas, in accordance with the Town's Procurement Policy and the General Municipal Law, the Town Board wishes to authorize the Highway Department to purchase two (2) Henderson Tandem Conventional Chassis with cross conveyers, plows and leveling wings from New York Freightliner consistent with the above referenced proposal;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Pawling hereby authorizes and approves the purchase two (2) Henderson Tandem Conventional Chassis with cross conveyers, plows and leveling wings from New York Freightliner for a price not to exceed \$237,728.50 for each truck, for a total purchase price of \$475,457.00; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Pawling hereby authorizes and directs the Supervisor to execute any and all documents necessary to give effect to this Resolution.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE” Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

Resolution 2019086
Medical Insurance for Retirees

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling does hereby approve to replace in its entirety Section 808 “Medical Insurance for Retirees,” the subsection entitled “Eligibility” of the Town of Pawling Employee Handbook as follows:

“Eligibility”.

1. Employees. Employees will be eligible for medical insurance coverage in retirement, if on their date of retirement from the Town's service, the elected official will receive their bona fide retirement benefit from the New York State Employees' Retirement System and they satisfy one of the following criteria:

- a. Individuals employed prior to, or elected officials who took office prior to January 1, 2011, must be fifty-five years or older and have ten (10) years of continuous service with the Town; or
- b. Individuals employed on or after, or elected officials who took office on or after January 1, 2011, must be fifty-five years or older and have twenty (20) years of continuous service with the Town.”

2. Elected Officials who took office prior to January 1, 2018. Elected officials who took office prior to January 1, 2018 will be eligible for medical insurance coverage in retirement, if on their date of retirement from the Town’s service, the elected official will receive their bona fide retirement benefit from the New York State Employees’ Retirement System and they satisfy one of the following criteria:

- a. Elected officials who took office prior to January 1, 2011, must be fifty-five years or older and have ten (10) years of continuous service with the Town; or
 - b. Elected officials who took office on or after January 1, 2011, must be fifty-five years or older and have twenty (20) years of continuous service with the Town.
3. Elected Officials who took office after January 1, 2018 will not be eligible for medical insurance coverage in retirement.”

BE IT FURTHER RESOLVED, that a copy of this resolution shall be attached to the current Town of Pawling Handbook and distributed to each current Town employee and elected official.

MOTION: Supervisor Schmitt

SECOND: Councilman McGrath

Councilman McGrath felt that the Clerk and Highway Superintendent should be excluded from this. He said this in the motion at the last meeting and he stands by it. So unless the resolution is amended, he would vote no on it. He felt the Board was really close to having the solution and he is happy the Board is still talking about it.

Councilman Johnson said legal counsel said that the Highway Superintendent and the Clerk are not required to work 30 to 40 hours per week, although the town is very fortunate that the Clerk and Highway Superintendent we have now choose to do so. It is a major expense and people who choose to run for elected office know what is available when you apply and it is time to end it. The Board has listened to the public and has had many meetings and he is absolutely in favor of the resolution.

Councilman McGrath felt if you had a supremely qualified 30 year old who wanted to run for clerk and wanted to work for 20 years, they should be eligible.

Councilman DeRosa felt the whole benefit package needed to be looked at and this is a little piece of it all. He is not really in favor of piecemealing this.

Supervisor Schmitt said this addresses every elected position in Pawling. Before this year’s budget is prepared, he also wants to address compensation from every elected official and it will be addressed before the budget it passed this year. It will need to increase as well. This is one of the reasons he got involved in Pawling politics, this needs to change.

Councilman McCarthy said in this resolution, an employee that is currently on the books would be eligible, so an employee working for the Highway Department could run for Highway Superintendent, and they would be eligible for lifetime benefits. The same would apply for the Town Clerk position, if a long time employee wanted to run, they would be qualified and that is why he changed his mind and agrees with this. If someone new comes in off the street, he has no problem with this, but he wanted to make sure that current employees would be eligible for these benefits if they decided to run for Town Clerk or Highway Superintendent. He felt Town Clerk is a full time job and the Highway Superintendent is on call 24 hours per day. He wanted to confirm that and asked Town Attorney Nancy Tagliafierro.

Ms. Tagliafierro said that is correct.

Supervisor Schmitt said healthcare is changing everywhere and it needs to change here. He felt it should have changed before now and the fact that it hasn’t means that the Board has to

make substantial changes now. And before the budget is completed this year, the Board will also vote on how much is contributed from elected officials into their plans.

Councilman DeRosa said regarding the judges, the Town of Pawling is lucky to have judges who are attorneys. And if the Board starts cutting things and not adding something to their salaries, the Town may not get qualified people. He felt the Town's judges do a very good job.

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “NAY”

Supervisor Schmitt – “AYE”

**Resolution 2019087
Temporary Appointment – Part Time Building Inspector**

Whereas, due to the retirement of Building Inspector Carl Ellis a vacancy exists in the position, and

Whereas, the Town Board would like to hire a temporary part time Building Inspector while they continue the search for a permanent qualified Building Inspector, and

Whereas, Joseph Szilagy is a certified Building Inspector and Code Enforcement Officer with New York State, therefore, be it

Resolved, that the Town Board approves Joseph Szilagy as a part time Building Inspector at the rate of \$30.00 per hour effective July 15, 2019 until a permanent Building Inspector is hired.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2019088
Introducing Local Law # -2019 “Special Events” and Providing for Public Notice and Hearing**

BE IT RESOLVED that an amendment to Pawling Town Code to allow for Special Events by Permit, is hereby introduced by Town Supervisor James Schmitt, as Introductory Local Law # of the year 2019 before the Town Board of the Town of Pawling in the County of Dutchess and State of New York, and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Amendment, which is attached hereto, be laid upon the desk of each member of the Board, and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing on said proposed Amendment at the Holmes Whaley Lake Civic Association, in the Town of Pawling, New York at 7 o'clock P.M. on Wednesday, August 14, and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to refer Introductory Local Law # to the Town of Pawling Planning Board and Dutchess County Planning Department at least 30 days prior to the above referenced public hearing, and

BE IT FURTHER RESOLVED, that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Pawling of said public hearing at least five (5) days prior thereto.

MOTION: Councilman Johnson

SECOND: Councilman DeRosa

Councilman DeRosa said this has been worked on for the past year or two. He had some concerns, one being that it should be set up in two sections, one for smaller gatherings and one for larger gatherings, and it should be based on the number of people. The other concern was the 45 day time limit for approval, it should say 45 days from “the complete application”.

Councilman DeRosa said he was not ready to move this until it is reviewed by the Planning Board. He said it should only be sent to the Planning Board for review, not Dutchess County Planning & Development.

Following further discussion by the Board, Councilman Johnson made a motion to table Resolution 2019088, seconded by Supervisor Schmitt, motion passed unanimously.

Councilman Johnson made a motion to forward the law to the Town Planning Board and to the County Planning Board for review and a response within 30 days, at which point this Board can take further action, seconded by Councilman McGrath and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “NAY”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

Resolution 2019089

**Introducing Local Law # -2019 “Short Term Rentals” and
Providing for Public Notice and Hearing**

BE IT RESOLVED that an amendment to Pawling Town Code to allow for Short Term Rentals by Permit, is hereby introduced by Town Supervisor James Schmitt, as Introductory Local Law # of the year 2019 before the Town Board of the Town of Pawling in the County of Dutchess and State of New York, and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Amendment, which is attached hereto, be laid upon the desk of each member of the Board, and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing on said proposed Amendment at the Holmes Whaley Lake Civic Association, in the Town of Pawling, New York at 7 o'clock P.M. on Wednesday, August 14, and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to refer Introductory Local Law # to the Town of Pawling Planning Board and Dutchess County Planning Department at least 30 days prior to the above referenced public hearing, and

BE IT FURTHER RESOLVED, that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Pawling of said public hearing at least five (5) days prior thereto.

MOTION: Councilman Johnson

SECOND: Councilman DeRosa

Councilman DeRosa said there are quite a few changes he would like to see in this proposed local law and he did not want to go through them all. He said the definitions would need to be looked at because other definitions would be in conflict with short term rentals and he suggested the possibility of eliminating some definitions to make this work. He also felt that the Zoning Administrator should be added to the review of these applications. He felt the 150 foot notice to surrounding residents should be changed to residents with 300 feet, as in other parts of the code. He also felt there should be a maximum number of occupants added to the local law. He also suggested that there should be a way for residents to express their concerns on any given application.

Following further discussion, Supervisor Schmitt made a motion to table resolution 2019089, seconded by Councilman Johnson, motion passed unanimously.

Supervisor Schmitt made a motion to send this Local Law - Short Term Rentals to the Town Planning Board and County Planning Board for review within 30 days, seconded by Councilman Johnson, and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “NAY”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

BOARD MEMBER DISCUSSION

JOHNSON

Councilman Johnson said regarding PWD#2, there is an issue with the output on well #4 and so next Friday, they will be doing a zone frack which historically has always helped. There is extreme iron in the water and he is confident that this will work. Also, he is exploring drilling another well and he will be gathering costs, facts and figures on that. While the well is out of service, the tanks will be filled with water and there should be no interruption to the residents. As a second issue, the drain pipes coming out of the tank need to be replaced. When that happens, they will try to have the replacements preassembled and limit the down time the water will be off. Last week, he, Councilman DeRosa, John Daley, and Vinny DeMarco volunteered and replaced the roof on the dog kennel, which preserves the ability to store stray dogs safely and helped a local business.

MCCARTHY

Councilman McCarthy said the speed limit has finally been set for South Quaker Hill Road to 30 miles per hour from the Connecticut line to the Putnam County line. Highway Superintendent Jay Dickinson has ordered signs and they should be in within the next two to three weeks. He spoke with the County and effective immediately, they will no longer do studies on roads so if the town wants to change a speed limit, the town would have to pay for it and it is very expensive. The town is going to have to try to figure out what to do and how to pay for this. So he felt the town would be at a standstill with changing speed limits for now. The compactor for the transfer station should be in within the next couple of weeks. He felt the Board needed to discuss tires being accepted at the transfer station and possibly limiting the number people can bring in.

DEROSA

Councilman DeRosa thanked the attendants filling in for Gordy Hoag at the transfer station. Regarding the Whaley Lake Dam, he felt that the grass seed at the top of the dam needed to be reseeded because the grass didn't take. This should be fixed. There are still complaints about

the level of the lake and the weed issue. He felt a discussion with the residents needed to be scheduled so as to discuss their concerns and see if there could be a consensus on raising the level of the lake six inches, which NYS DEC said the town could do. If the Board agreed to raise the lake level, it would need to be done in September. He felt that a letter should be sent to the residents in Holmes telling them that the August 14th meeting would be held in Holmes and there would be a discussion about the dam and lake at that time. Councilman DeRosa said the golf course looks great and the guys are doing a great job maintaining it. He has been working at the golf course to fix the wood frame that holds the practice netting. Shawn Cunningham is doing a great job, as well as the maintenance workers.

SCHMITT

Supervisor Schmitt said there have been a lot of events in the town and village recently. He announced that Community Day is this Saturday and he hoped everyone would attend. He thanked Mike Kelly, Chief Constable and the constables for all of their work. With the increased usage of the park comes some bad things and the constables are relied upon to keep things in order.

MIKE KELLY, CHIEF CONSTABLE

Chief Constable Mike Kelly said the problem that happened needs to be discussed for the safety of the kids that were in the park after hours. There were two ten year olds, a sixteen year old and two fifteen year olds in the park after hours. He told them they should not be in the park after the beach closed but they are doing this each night now. This needs to be addressed and the Board needs to come up with a solution.

Councilman Johnson said he would like to try to exercise putting a little fear in the kids and holding the parents ultimately responsible.

Chief Constable Kelly said something needs to be done now, this has been going on for years. If nothing happens, he will be handing in his resignation.

Councilman DeRosa felt the parents and kids should be brought in and it should be discussed with them. If it happens again, it should be brought to the next level. Chief Constable Kelly is right, something needs to be done.

Supervisor Schmitt said Chief Constable Kelly is correct and the Board is not taking this lightly. He would be reaching out to the parents to let them know how serious this is. He did not want Chief Constable Kelly to resign, the Board is taking it very seriously and it will be addressed. If the kids are caught again, they will be turned over to the authorities.

Wendel Weber, Supervisor of Buildings & Grounds suggested additional cameras in the park.

PUBLIC COMMENT

Jonathon Baran, resident of 4 Great Bear Road in Holmes, said the condition of Great Bear Road is atrocious. You have to see it to believe it but the road is in very bad condition. He understood the Board was under financial restraints but if they could find money in the budget to repair the road, he would greatly appreciate it.

Glenn Carey felt it was wrong that the Town Board changed their position on allowing public comment on agenda items prior to the start of the meeting. There is no opportunity to talk about resolutions that are being adopted this evening. Mr. Carey said regarding resolution 2019086, "Medical Insurance for Retirees", his reading of this is that someone who has been working for the town and who is elected this year, would not be eligible for this benefit.

Nancy Tagliafierro, Town Attorney felt they would be eligible and disagreed with Mr. Carey but said Labor Counsel prepared the resolution.

Mr. Carey felt the way this was done was not right, and he did not believe that the town clerk and town highway superintendent positions should be included. Regardless of whether they have structured hourly positions or not, they are elected by the people and the people will determine whether they will be reelected year after year. The Board are part time Board members, they are not putting forty hours per week into this job and are classified full time only so that they get benefits, and that is the health insurance. The change that should have been made was that the Town Board members should have been changed from full time to part time, and then they would not be eligible. He did not feel the Town Board members should be getting health insurance as a benefit. The individual should have to pay, especially for the family plan. He felt that the Town Board should all have one salary and they can buy health insurance if they want. The fact that Town Board members will retire from here and have full, lifetime medical

insurance is absurd and excessive. It is not fair and frankly he felt it was wrong. He is not giving up on this. If a full time town clerk or highway superintendent work for the town for 30 years, they should be eligible for health insurance, not Town Board members. If you look at what the town clerk and highway superintendent make, the benefits are part of their package and they are entitled to it and he did not feel it should be taken away from them. Essentially it will not be taken away from the current people, but it will discourage people from running for these positions if these benefits are taken away. He did not feel the judges deserved health insurance after they leave the town and lifetime benefits is an excessive benefit. This should be one overall discussion on the benefit package, and not just of the elected officials but of the Town Board, who are part time, that is the reality.

Supervisor Schmitt said he understood Mr. Carey's stance but he went back to his first day of being elected and eliminated the ability for lifetime benefits moving forward. Mr. Carey has been in Pawling his whole life and never stood up here during Dave Kelly's tenure or Beth Coursen's tenure to get rid of this.

Mr. Carey said Supervisor Schmitt was wrong, he had and Supervisor Schmitt should go back and read the minutes.

Supervisor Schmitt said currently there is only one former Town Board member getting the lifetime benefit. The bigger thing to tackle is the contribution, which will be addressed before the budget process happens.

Mr. Carey said he is well aware of who is eligible for this benefit. It is one or two excessive benefit recipients.

Supervisor Schmitt said the healthcare is a constant ongoing thing, and there is much to be done here.

Mr. Carey said Town Board members shouldn't get health insurance and if they do, they should have to pay for it.

Supervisor Schmitt said the Board made a huge step tonight.

Mr. Carey said it wasn't huge enough because the Town Board didn't want to change their status to part time, so it was changed for all elected officials. It is wrong.

Supervisor Schmitt said he did not think he put in part time hours here since the first day he got in.

Councilman Johnson said nor does anyone on this Board.

Coleen Snow, resident of Mohawk Trail, asked if the resolutions could be posted with the agenda going forward. She suggested that if there is a hot topic on the agenda, she asked that people be allowed to comment on that topic at the beginning of the meeting so the public can be heard.

Mark Chipkin said he appreciated all the Board does and he supported efforts to improve the agenda as has been stated, to give people a chance to comment before the meeting. He asked Councilman Johnson about zone fracking, which was talked about relating to PWD #2.

Councilman Johnson explained that zone fracking is where they put balloons down inside the well that expand, which produces a force and hopefully frees up the debris that has built up inside the well.

Mr. Chipkin asked about the money allotted for Hurds Corner Road.

Supervisor Schmitt said this will go into the next calendar year.

Marty Mygan, resident of Holmes, said he works for a company that makes a profit of about a billion dollars per month and he doesn't get the benefits that the Board gets. He is frustrated. If the benefits for the family plan is costing the taxpayer upward of \$28,000.00 per year, that is beyond ridiculous. He will not receive the lifetime benefits once he retires.

Supervisor Schmitt said the \$28,000.00 cost of the plan is before contributions. He felt the contributions should be 20 to 25% flat of the cost of the plan, instead of 25% of the difference between the single and family plan.

The motion to adjourn was made at 8:30 PM by Councilman Johnson, seconded by Councilman McGrath, motion passed unanimously.

Town Clerk

LOCAL LAW NO. OF THE YEAR 2019
A LOCAL LAW ESTABLISHING AMENDING CHAPTER 215 (ZONING)
OF THE TOWN CODE OF
THE TOWN OF PAWLING
ENTITLED “SHORT TERM RENTALS”

BE IT ENACTED by the Town Board of the Town of Pawling, County of Dutchess, as follows:
Section 1: Section 215-3 of the Zoning Code of the Town of Pawling is hereby amended with the insertion of a new definition of “Short-Term Rental” to read as follows:

SHORT-TERM RENTAL- A dwelling unit that is rented, in whole or part, to any person or entity for a period of less than 30 consecutive nights, and is not regulated by any other section of the Code of the Town of Pawling. “Rental” means an agreement granting use or possession of a residence, in whole or in part, to a person or group in exchange for consideration valued in money, goods, labor, credits, or other valuable consideration. Use of short-term rental by a record owner of a property shall not be considered a rental under this section.

Section 2: Chapter 215 (Zoning) of the Code of the Town of Pawling is hereby amended with the insertion of a new section 215-44.1 to read as follows:

§ 215-44.1 Short-Term Rental Regulations.

A. Intent. To guide the future growth of the Town, while preserving the rural character of the neighborhood, protect the health safety and welfare of surrounding community, residents of the Town, and the Short Term Rental transient occupants. Promote a beneficial way for property owners to monetize extra space in exchange for rental income to offset expense, maintain properties aesthetics and values within a neighborhood.

B. Permit Required. An owner shall obtain a revocable short-term rental permit whenever a dwelling unit, apartment within a dwelling unit, or any bedroom within a dwelling unit, is to be used for short-term rental purposes.

(1) A short-term rental permit shall be obtained prior to using the unit as a short-term rental.

(2) A short-term rental permit shall be valid for one calendar year and must be renewed upon expiration as long as the unit is used as a short-term rental.

(3) The short-term rental permit is transferrable to a new owner of said premises, so long as the owner registers with the Town updating the short-term rental permit application, and agree in writing to comply with the requirements of the short-term rental permit and these regulations. (4) If the terms of the short-term rental permit are violated or these regulations not followed, the short-term rental permit may be revoked by the Building Inspector and the owner subject to the penalties of Chapter 11 of the Code of Pawling, and the penalties set forth below.

C. Notification to Neighbors: As a condition precedent to submitting an application for a Short Term Rental Permit, the applicant must send written notify to all property owners in a 150 foot radius of the subject property of the applicant’s intent to apply for a Short Term Rental Permit, by certified mail, return receipt requested. The applicant shall obtain the most current addresses for the neighboring property owner’s from the assessor’s office. Such notice must include:

(1) The number of rooms that the applicant intends to rent on a short term basis. If the application is for the entire house, then the notice shall include the number of bedrooms, as defined below, within the house.

(2) The names and contact information for all property owners of the short term rental, including current telephone number and email addresses.

(3) The name, address, telephone number and email address of a contact person, who shall be responsible and authorized to act on the owner's behalf to promptly remedy any violation of these standards or the permit. The contact person may be the owner or an agent designated by the owner to serve as a contact person.

(4) The parking plan for the short term rental.

With the application the applicant must provide a notarized affidavit affirming that the certified mailings have been sent, a list of the property owners within 150’ and copies of any and all receipts and return receipts.

D. Short-Term Rental Permit Application Requirements. An application for (or renewal of) a short-term rental permit signed by all persons and entities having ownership interest in the subject property, shall be submitted to the Building Inspector, shall be accompanied by payment of a permit fee, to be determined by the Town Board by separate resolution, shall by a copy of the current vesting deed showing how title to the subject property is then held, shall be completed on a form provided by the Town, and shall provide the following information:

(1) A list of all property owners of the short-term rental including names, addresses, telephone numbers and email addresses.

(2) Completion of a signed and notarized affidavit by all property owners certifying the following:

(a) Compliance with the following standards:

(i) There shall be one functioning smoke detector in each sleeping room and at least one functioning smoke detector in at least one other room, one functioning fire extinguisher in the kitchen and at each exit, and at least one carbon monoxide detector. In addition, the premises must comply with all NYS Building and Fire Code regulations, as the same may be amended.

(ii) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.

(iii) Electrical systems shall be serviceable with no visual defects or unsafe conditions.

(iv) All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and properly installed.

(v) Each sleeping room shall have an exterior exit that opens directly to the outside, or an emergency escape or rescue window.

(b) The number of sleeping rooms within one short-term rental, as defined in this section.

(c) The number of parking spaces on the property that meet the standards set forth below.

(d) Affidavit certifications shall be valid during the term of the short-term rental permit, or until modifications requiring a building permit are made. If relevant circumstances on the property change or for any reason the certification is or becomes inaccurate, a new certification shall be submitted.

(e) Affidavit pursuant to Chapter 67 of the Town Code, entitled "Application Processing" certifying that there are no violations on the property.

(3) A site plan, drawn to scale, showing the location of buildings, required parking and, if not served by a public sewer, the location of the septic system and leach field. An accurate suitable plan need not be prepared by a professional.

(4) If the property is served by a private septic system, a septic inspection report, dated within 90 days of the date of the application, stating the size of the tank(s) and leach or absorption field or area and location and condition of all septic system components. The report must state the septic system was adequately functioning at the time of inspection. The maximum occupancy of the short-term rental unit shall be limited by the number of bedrooms allowed for the size of the septic tank and leach or absorption area, as set forth in the regulations of the NYS Department of Health, Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations, as amended, and regulations and/or standards applicable to aerobic septic systems. A system failure will require a new passing inspection report.

(5) The name, address, telephone number and email address of a contact person, who shall be responsible and authorized to act on the owner's behalf to promptly remedy any violation of these standards or the permit. The contact person may be the owner or an agent designated by the owner to serve as a contact person.

(6) A statement that the applicant has met and will continue to comply with the standards of these regulations and the permit.

E. Short-Term Rental Standards. All short-term rentals shall meet the following standards:

(1) The maximum occupancy for each short-term rental shall be the smaller of:

(a) The maximum number of people allowed based on the septic inspection report, if applicable; or

(b) The number of people calculated on the basis of 2 persons per sleeping room (unless the room size is below 100 square feet), plus an additional 2 persons. For this purpose, a sleeping room is defined as a fully enclosed habitable space of at least 70 square feet for one person and 100 square feet for two persons, with an emergency escape or rescue opening.

(2) The property must have sufficient off street parking spaces in compliance with the requirements of Section 215-34 (Off Street Parking and Loading) of this Chapter, to accommodate the maximum occupancy.

(3) Tenants and guests shall park in the off street parking spaces required by Section 215-34 of the Town Code and shall not park on any part of the lawn of the property nor on the street.

(4) A house number visible from the street or road shall be maintained.

(5) Provisions shall be made for garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling of odors, and placed where they are not clearly visible from the street or road except around pick-up time.

(6) Advertisements for the short-term rental must conform to what is allowed under these regulations and the short-term rental permit. All signs must comply with any and all requirements of the Town of Pawling Town Code.

(7) No short term rental shall be used for a Special Event as defined in Town Code Chapter _____ without first applying for and obtaining a Special Event Permit consistent with the provisions of said Chapter.

F. Procedure Upon Filing Application.

(1) Upon filing the permit application, fee, and supporting affidavits with the Town Building Inspector, the Town Building Inspector shall have 30 days to review the application, inspect the property, and then either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied along with the reason or reasons for denial. If a permit is issued, the permit shall bear the signature of the Building Inspector.

(2) In submitting the application for a new permit or any renewal, the Owner consents to an inspection of the property to ensure compliance with all conditions.

(3) In issuing a short-term rental permit, the Building Inspector may impose such reasonable conditions and restrictions as are directly related to and incidental to the use of the property for short-term rentals, so long as such conditions and restrictions are consistent with the requirements of the Town Code and are imposed for the purpose of minimizing any adverse impact the issuance of the short-term rental permit may have on the neighborhood or community. The Building Inspector may review any written complaints or concerns of neighbors and take such complaints and concerns into account when determining reasonable conditions.

(4) The Town Building Inspector may deny an application for any of the following reasons:

(a) The application is incomplete, the documentation required by this Chapter was not included with the application or the full permit fee, in payment form acceptable to the Building Department, was not included with the application.

(b) The Town of Pawling issued a short-term rental permit to any of the owners of the subject property and any of such owners had a short-term rental permit revoked within the previous year.

(c) The affidavit from the owners or an inspection conducted by the Building Inspector as authorized in this section evidences that the subject property is not in compliance with this Chapter or Chapter 67.

(d) The site plan submitted with the application does not comply with the requirements of this section.

(e) A private septic inspection report submitted with the application does not comply with the requirements of this section and with all East of Hudson requirements for maintenance of such septic systems as the same may be amended from time to time.

(5) Short-term rental permits issued pursuant to this section shall state the following:

(a) The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;

(b) The maximum occupancy and vehicle limits for the short-term rental unit;

(c) Identification of the number of, and location of parking spaces available;

(d) A statement that littering is illegal;

(e) A statement that all fires must be attended;

(f) A statement that guests must comply with the Noise ordinance of the Town of Pawling, as set forth in Section, 215-35, which ordinance will be enforced by any law enforcement agency properly exercising jurisdiction over the premises or incident; (g) A statement that the short-term rental permit may be revoked for violations; and

(h) Any conditions imposed by the Town Building Inspector.

G. Conformity and Display of Permit.

(1) The issuance of a short-term rental permit is subject to continued compliance with the requirements of these regulations.

(2) Prior to any tenants coming onto the short-term rental property:

· (a) The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental; and

(3) The owners must ensure that current and accurate information is provided to the Town Building Inspector and that they notify the Building Inspector immediately upon any information contained on the permit changing.

H. Compliance, Hearings and Penalties. Owners of short-term rental units shall obey all applicable laws, ordinances and regulations of the Town of Pawling, Dutchess County, New York State and shall be subject to the enforcement and penalty proceedings contained in this Chapter.

The following process shall be followed in the event of a complaint alleging a violation of these regulations or a permit issued under these regulations:

(1) The complaining party may file a complaint with the Building Inspector on a form provided by the Building Department including the date, time and nature of the alleged violation. The complaining party may also contact the local police/sheriff department.

(2) The Town Building Inspector shall investigate the complaint. Any person who commits or permits any act in violation of any provisions of this chapter shall be deemed to have violated this chapter and to have committed a misdemeanor against the chapter and shall be liable to the following penalties:

- (a) For each violation of the provisions of this chapter, the person violating the same shall be subject to a fine of not more than five hundred dollars (\$500.) nor less than one hundred dollars (\$100.) or imprisonment not to exceed one (1) year, or to both such fine and imprisonment.
- (3) In addition to finding a violation, the Building Inspector may do any of the following depending on the circumstances:
- (a) Attach reasonable conditions to the existing short-term rental permit;
 - (b) Suspend the short-term rental permit; and/or
 - (c) Revoke the short-term rental permit.
- (5) Should a permit be revoked, none of the owners of the short-term rental property will be permitted to apply for any short term rental permit for one year from the date of revocation.
- (6) The Town may initiate enforcement proceedings under this Chapter at any time following receipt of a complaint.
- (7) Decisions of the Code Enforcement Officer or Building Inspector to impose conditions, suspend or revoke will be provided to the parties and may be appealed, within 30 days of receipt of the decision, by the owner or by the complainant to a tribunal, appointed by the Town Board, consisting of one Town Board member, one town resident who holds a short-term rental permit, and one town resident who does not hold a short- term rental permit. The appealing owner or complainant shall make a written request for a hearing to the Building Department, and the tribunal shall hear the appeal within 15 days of the request, during which time the decision of the Building Inspector shall be stayed. At the hearing the tribunal shall accept evidence offered by the property owner, the complaining party, the Building Inspector and any other witness with relevant evidence. The tribunal shall make its decision within 10 days of the hearing, and may uphold the Building Inspector’s decision, reject it, or modify it.
- (8) In addition to the above-provided penalties, the Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Section 3. 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 of competent jurisdiction, such judgment shall be confined in its operation to the part or 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 persons or circumstance, and the Town Board of the Town of Pawling hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 4: Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**LOCAL LAW NO. OF THE YEAR 2019
A LOCAL LAW ESTABLISHING AMENDING CHAPTER 215 (ZONING)
OF THE TOWN CODE OF
THE TOWN OF PAWLING
ENTITLED “SPECIAL EVENTS”**

BE IT ENACTED by the Town Board of the Town of Pawling, County of Dutchess, as follows:
Section 1: Chapter 215 (Zoning) of the Code of the Town of Pawling is hereby amended with the insertion of a new section 215-44.2 to read as follows

Special Events Article I. General Provisions

§ 215.44.2-1. Purpose.

It is the intent of this chapter to establish procedures and requirements for conducting special events in the Town of Pawling to preserve the public peace, good order and the integrity of the use regulations established under the Zoning Code, to properly provide for the health, safety and welfare of the general public and to provide penalties for violations of the provisions herein.

§ 215.44.2-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PARKING CAPACITY

For the purposes of this chapter, parking capacity shall be the number of cars, limousines or buses permitted on the site according to a site plan approved by the Town of Pawling Planning Board.

SPECIAL EVENT

Any temporary gathering, demonstration, performance, exhibition, amusement or activity that is not currently a permitted use of the property in the applicable zoning district or which requires a parking area to accommodate all vehicles transporting attendees to the event that is larger than the existing parking capacity of the site that is conducted or sponsored by a person, organization, entity or association, including, but not limited to, carnivals, circuses, fairs, bazaars, outdoor shows and concerts, parades, walks, runs, marathons, bicycle races or motorcycle rallies, which may involve one or more of the following:

- A. The closing of a public street.
- B. The use, blocking or restriction of Town property, roads or rights-of-way;
- C. The use of amplified sound exceeding the standards set forth in Chapter 180 of the Town Code.
- D. The sale of merchandise that is not ordinarily sold in the normal course of the applicant's business.
- E. The sale or service of food to the public with the exception of the following:
 - (1) On land used in agricultural production, the sale or service of food products composed primarily of ingredients produced on site; or
 - (2) On land used in agricultural production that maintains a winery, brewery, or farm winery license issued by the New York State Liquor Authority, the sale or service of food items which customarily complement wine tastings and that are ordinarily consumed while standing or walking and without the need for utensils.
- F. The substantial increase or disruption of the normal flow of traffic on any street or highway.
- G. The placement of portable toilets.
- H. The placement of temporary no-parking or directional signs or banners.
- I. The use of Town services that would not be necessary in the absence of such an event.

Events Article II. Permit Required and Procedure

§ 215.44.2-3. Permit required.

A. To preserve public peace, good order and the health, safety and welfare of the residents of the Town of Pawling, special events shall be prohibited in the Town of Pawling unless a special event permit is obtained in accordance with the requirements set forth in this chapter and as follows:

- (1) All special events shall require the issuance of a special event permit by a resolution of the Town Board.
 - B. The provisions of this chapter shall not apply to the following events:
 - (1) Any event held on property owned by any special district that is contained on site and has adequate parking, ingress, egress, traffic control and sanitary facilities to host such an event;
 - (2) Any event held on property owned by a not-for-profit for its own fundraising that is contained on site and has adequate parking, ingress, egress, traffic control and sanitary facilities to host such an event; and
 - (3) Occasional events on private residential properties hosted by the owner thereof to celebrate family events, holidays, charitable or other not-for-profit fundraisers; however, any use of residential property for profit, such as a venue for weddings or other events, is prohibited.
- If, however, the attendance at the events described in this § 215.44.2-3(B) are expected to meet or exceed 500, including, without limitation, organizers, employees, vendors, exhibitors and spectators/participants, the owner or event sponsor must confirm with the Building Inspector at least 45 days prior to such event that all local, state, and federal laws, rules and regulations are complied with.

§ 215.44.2-4. Application Requirements.

The following information and materials are to be submitted with an application for a special event permit. A single application may be made for a recurring event or a series of similar events (not to exceed six in a three-month period) that are of like size and scope.

- A. A completed special event application form which includes the following information:

- (1) The name, address and telephone number(s) of the person(s) who will be organizing the event and who can be contacted prior to and during the event by Town officials.
- (2) The address of the event location.
- (3) The proposed dates and hours of the special event, including setup and shutdown times.
- (4) The expected maximum number of persons intended to use the property at one time and collectively, including organizers, employees, vendors, exhibitors and spectators/participants.
- (5) Expected number of automobiles and other vehicles intended to use the property at one time and collectively.
- (6) The name, address and telephone number of the person(s) who will be engaged in the preparation and/or sale of food, alcohol, or beer and a copy of the State Liquor Authority license and County Department of health.
- (7) The name, address and cellular telephone number of any security company which will work on the premises, and a description of the duties to be performed.
- (8) The dimensions of any tents to be utilized for the event. All tents erected in connection with an event will require an application to, and the approval of, the Building Department.
- (9) Certification that the property where the event is to take place is not subject to any covenant or restriction limiting its use, or if the use is restricted by easement or otherwise, a copy of a survey or diagram depicting the easement area and any reserved area where development rights are intact.
- (10) The applicant must provide a certificate of general liability insurance and declarations page from the policy naming the Town of Pawling as an additional insured with limits of \$1,000,000 per occurrence or such other limit as may be required by the Town Board for events where expected attendance exceeds 500 attendees.
- (11) Affidavit pursuant to Chapter 67 of the Town Code, entitled "Application Processing" certifying that there are no violations on the property.

B. The appropriate application fee.

- (1) The fees for special event permits shall be proscribed by a resolution of the Town Board.

C. A general description of the proposed event including:

- (1) The purpose of the event and description of the nature of the activities to be carried on and the admission fee to be charged, if any.
- (2) The names of groups, organizations, charities or individuals who shall benefit from the proceeds of the event.

D. A parking/event plan showing:

- (1) The size of the property and its location in relation to abutting streets or highways.
- (2) The size and location of any existing building(s) or structure(s) that will be in operation during the course of the event and any proposed building, structure or signs to be erected temporarily for the event.
- (3) The location of the stage or tents, if any.
- (4) The designated areas of use for spectators, exhibitors, vendors, employees and organizers.
- (5) The location of all exits.
- (6) The location of all fire extinguishers and other fire safety equipment. A statement specifying the precautions to be utilized for fire protection, including a plan or drawing, to scale, specifying the location of fire lanes and water supply for fire control.
- (7) The location of all temporary utilities to be installed for the event, if any.
- (8) The layout of any parking area for automobiles and other vehicles and the means of ingress and egress for such parking areas. The parking spaces must allow for 175 square feet per car.
- (9) A traffic control plan for vehicles entering and leaving the site for the proposed event.
- (10) A plan for the use of live outdoor music, loudspeakers and other sounds which will be used, if any, and the type and location of speakers and other audio equipment. A statement of the maximum noise decibels contemplated at the Special Event at the site of the nearest adjoining or contiguous property.
- (11) A description of emergency access and facilities related to the event. A statement specifying the facilities to be available for emergency treatment of any person who may require medical or nursing attention.
- (12) Provisions to dispose of any garbage, trash, rubbish or other refuse.

(13) The location and a description of any additional lighting to be utilized in conjunction with the event.

(14) The location of sanitary facilities on site.

(15) The location, method and manner that water will be supplied and distributed to those in attendance.

E. A description of any signage to be displayed adjacent to a Town, county or state road, including size, location and dates of display. All signage must comply with all requirements of the Town of Pawling Town Code.

F. A minimum cleanup deposit of \$250.

G. The Town Board may require the applicant to send and provide certification that written notice was sent to every property owner abutting or adjacent to the property where the event is to be held, as shown on the current Town of Pawling assessment roll, and directly opposite (by extension of the lot lines through a street or right-of-way) of the property that is the subject of the application. Said notice shall include the date, time and location of the proposed special event.

H. Notwithstanding the foregoing, the Town Board, upon request by an applicant, may waive in whole

or in part any of the foregoing application requirements upon a finding that said requirements are not necessary for proper consideration of a permit application in accordance with the standards set forth in § 214.44.2-5E(1) through (15) or for the protection of health, safety and welfare. The Town Board's determination of any waiver request shall be in writing to the applicant and shall specify the reason for the grant or denial. If a waiver is granted, the Town Board may attach appropriate conditions to protect the public interest.

§ 215.44.2-5. Application Review Procedure and Standards.

A. All applications for a special event permit must be submitted at least 45 days prior to a proposed event to the Town Building Department. Upon receipt of an application for a special event permit, the Town Building Department.

B. Upon receipt of an application, the Building Inspector shall review the application, in conjunction with the Town Fire Marshall, and make a determination as to completeness. Upon making a determination that the application is complete, the Building Inspector shall cause the application and related documentation to be distributed to any Town, county or state agencies that may have jurisdiction over the event for their review and comment on any of the criteria set forth in § 215.44.2-5E of this article. Such referrals may include the Police Department, the Planning Department, the Building Department, the Office of the Zoning Board of Appeals, the Dutchess County Planning Commission, the Land Preservation Department, the Code Enforcement Department, the Fire Marshal, the Assessors' Office and/or the Town Attorney.

C. Upon receipt of comments, the Building Inspector shall review the complete application and determine whether to grant the application, deny the application, or grant the application with conditions. In considering whether to recommend approval or denial of the application, the Building Inspector shall consider the following:

(1) The size and capacity of the site to accommodate the proposed event.

(2) The facilities available.

(3) The availability of highways and other means of transportation to and from the site.

(4) The impact of the event on the safe and orderly movement of traffic within and contiguous to the event.

(5) The need for the Town to police such event, and whether the number of police officers assigned to properly police such event will prevent the Town from providing adequate police protection to the remainder of the Town.

(6) The impact of the event on fire and police protection and ambulance service to the areas contiguous to the event and to the Town in general.

(7) The impact of the event on the movement of firefighting equipment or ambulance service to the Town or to areas contiguous to the event.

(8) Whether the owner, applicant or event sponsor has violated a previously issued special event permit.

(9) Verification that there are no outstanding violations on the property at which the event will be held or any outstanding or unsatisfied conditions of a Town agency approval, including, but not limited to,

those of the Planning Board or the Zoning Board of Appeals.

(10) Verification that the grant of the permit will not violate any existing covenants or easements on the property.

(11) Whether a permit has been granted for a prior event that was the same or substantially similar in size and scope to the event applied for and/or resulted in the impacts defined in Subsection E(4), (5), (6), (7) and (8) above.

(12) Whether the frequency of prior or proposed special events on the site constitutes a change or intensification of the permitted use of the property necessitating a use variance or further site plan review.

(13) If an applicant is requesting a special event permit that was held the previous year, the verification must be submitted from those charities listed on the previous application.

(14) Any other matters that relate to the health, safety and welfare of the general public.

(15) At any event where attendance is expected to exceed 500, including, without limitation, organizers, employees, vendors, exhibitors and spectators/participants, the Building Inspector shall ensure that all local, state and federal law, rule and regulation is complied with.

D. A deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police/sheriffs and highway costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to the applicant.

E. Where the Building Inspector determines that there is no specific Town benefit from the event or that the event is conducted for profit, an additional deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police, highway and cleanup costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to the applicant. If the costs incurred by the Town exceeds the amount deposited, the applicant shall be responsible for the additional costs incurred by the Town as a result of the special event.

F. A special event permit is not transferable and shall expire at the close of the event(s) for which it is issued.

G. The special event permit issued hereunder shall be displayed on the premises during the special event and shall be available for inspection by a police officer or other enforcement officer of the Town upon request.

H. Applications for tent permits required for any event must be submitted directly to the Building Department.

I. At the sole discretion of the Building Inspector, applications that are submitted less than 60 days prior to the proposed event may be rejected or be considered subject to the applicant paying a late processing fee.

§ 215.44.2-6. Appeal from denial of a special event permit.

An applicant who is denied a permit by the Building Inspector may apply to the Town Board for reconsideration of the application by filing an appeal with the Town Clerk within 10 days of the date of the denial. A complete copy of the application shall accompany the request for reconsideration. The Town Board may, following a public hearing, affirm, amend or reverse the determination of the Building Inspector's prior decision subject to any conditions deemed appropriate under the circumstances.

Article III. Special Events Requiring Town Board Approval

§ 215.44.2-7. Events held on Town lands or events exceeding 1,000 attendees.

A. Any event held on property owned or controlled by the Town or any event where the expected attendance exceeds 1,000 people shall be subject to approval by resolution of a majority of the Town Board. All applications for such an event shall be submitted to the Building Inspector no less than 60 days prior to the proposed event. After review of the application, the Building Inspector shall forward the application to the Town Board with a recommendation to grant the application, deny the application, or grant the application with conditions. In reviewing

applications for such events, the Town Board may consider the following criteria in addition to the criteria set forth in § 215.44.2-5C above:

- (1) The size of the premises in relation to the number of people attending the event.
- (2) The sufficiency of arrangements made to control traffic, parking, noise, lighting and refuse.
- (3) The frequency of events proposed or approved for the premises and whether the frequency is so great that the events constitute a persistent usage of the property incompatible with its character or with that of the surrounding area.
- (4) Conflicts with ordinary public use of the land, roads or facilities involved.
- (5) Whether the applicant has been convicted for failure to comply with the terms of this chapter within the past three years.
- (6) Adherence to the Town Board policy of discouraging events at Town beaches and parks from the Friday before the observance of Memorial Day until Labor Day.
- (7) If two or more events with an expected attendance of more than 1,000 people are scheduled for the same date and are within a half-mile radius of each other, the Town Board will determine if there are adequate resources for the events. If there are not sufficient resources to ensure public health and safety, the Town Board shall deny one or more permits if the impacts of the events cannot be mitigated. When deciding which event to deny, the Town Board shall consider the following:
 - (a) Whether the event is recurring.
 - (b) Whether the site has been subject to a violation within the last three years.
 - (c) The date the permit application was submitted.
 - (d) If events occurred the prior calendar year, the Town Board shall consider what their impact was on that area of the Town.
 - (e) Whether the event will yield a donation to one or more local charities.

B. For any special event that is to be held on land owned, leased or controlled by the Town of Pawling, the application shall include the following:

- (1) A completed special event application form which contains the following information:
 - (a) The name, mailing address, e-mail address and telephone number(s) of the person(s) who will be organizing the event and who can be contacted prior to and during the event by Town officials.
 - (b) The proposed event location and type of event.
 - (c) The proposed dates and hours of the special event, including setup and shutdown times.
 - (d) The expected maximum number of persons intended to use the property at one time and collectively, including organizers, employees, vendors, exhibitors and spectators/participants.
 - (e) If there are any special requirements needed for the event, including, but not limited to, police presence or road closures.
- (2) An application fee as set by the Town Board by separate resolution.
- (3) A certificate of insurance and declarations page of each policy for not less than \$2,000,000 naming the Town of Pawling as an additional insured.
- (4) A minimum cleanup deposit of \$250.
- (5) Where the Town determines that there is a specific benefit for the event or that the event is conducted for profit, an additional deposit shall be made in an amount to be determined prior to issuance of the permit based upon the estimated direct costs attributable to additional police, highway and cleanup costs associated with the event. After the event, the deposit will be used to cover such costs, and any monies remaining will be returned to the applicant.
- (6) Any additional information, licensing and permits required by the Town Clerk and/or Building Department.
- (7) The Town Board may require the applicant to engage the services of licensed security guards for the event. In such case, the applicant must provide the Town Board with a copy of the contract to provide security evidencing that the guards are licensed.

C. For any special event where the expected attendance exceeds 1,000 attendees, the application shall include all information required under § 215.44-4A, C, D and E, as well as the following:

- (1) An application fee of as set by the Town Board by separate resolution.
- (2) A certificate of insurance and declarations page from each policy of not less than \$2,000,000 naming the Town of Pawling as an additional insured.

(3) The Town Board may require the applicant to send and provide certification that written notice was sent to every property owner abutting or adjacent to the property where the event is to be held, as shown on the current Town of Pawling assessment roll, and directly opposite (by extension of the lot lines through a street or right-of-way) of the property that is the subject of the application. Said notice shall include the date, time and location of the proposed special event.

(4) The Town Board may require the applicant to engage the services of licensed security guards for the

event. In such case, the applicant must provide the Town Board with a copy of the contract to provide security evidencing that the guards are licensed.

D. Notwithstanding the foregoing, the Town Board, upon request by an applicant, may waive in whole or in part any of the foregoing application requirements upon a finding that said requirements are not necessary for proper consideration of a permit application or for the protection of health, safety and welfare. The Town Board resolution shall specify the reason for the grant or denial. If a waiver is granted, the Town Board may attach appropriate conditions to protect the public interests.

Article IV. Enforcement

§ 215.44.2-8. Modification or rescission of permit.

If, after a permit is issued, the Town Board determines that any of the representations and/or statements contained in the application are materially inaccurate or any of the conditions of the permit have not been complied with, the Town may serve the permittee's agent a notice of rescission of special permit specifying the manner in which the permittee has not complied with the terms of its permit and/or identifying the incorrect information supplied in the application. The Town Board may, for good cause, modify or rescind such permit, absolutely or upon conditions.

§ 215.44.2-9. Penalties for offenses.

A. It shall be unlawful for any owner, occupant or his/her agent or any other person to fail to comply with any provisions of this chapter or to fail in any manner to comply with a written notice, directive or order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department, or to conduct any special event in a manner not in compliance with a permit issued pursuant to this chapter and with the provisions of this Code.

B. For each offense against any of the provisions of this chapter or failure to comply with a written notice, directive or order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department within the time fixed for compliance therewith, the owner, occupant or his/her agent or any other person who commits, takes part or assists in the commission of any such offense or who shall fail to comply with a written order of the Director of Code Enforcement, Zoning Inspector or the Police/Sheriff Department shall be a misdemeanor and shall be subject to the following:

(1) Failure to obtain a permit. Any person conducting a special event that is regulated under this chapter without first obtaining a permit according to the procedures outlined herein shall be subject to a fine of not less than \$1000 and not more than \$3000.

(2) Failure to comply with any terms of a permit. Any person failing to comply with the terms of a permit shall be subject to a fine of not less than \$1000 and not more than \$3000.

(3) For each subsequent offense of § 215.44.2-9B(1) or (2), violators shall be guilty of a misdemeanor and/or subject to a fine of not less than \$3,000 nor more than \$5,000.

C. No new special event permits will be issued to any property owner, occupant or his/her agent if such person is a named defendant in an outstanding or unresolved violation of this chapter.

D. The Town may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

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 of competent jurisdiction, such judgment shall be confined in its operation to the part or 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 persons or circumstance, and the

Town Board of the Town of Pawling hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3: Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.