

Supervisor James Schmitt opened the Regular meeting of the Town Board of the Town of Pawling at 7:00 PM September 11, 2019 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. He opened the meeting in remembrance of the tragedy we suffered together as a nation eighteen years ago. Present were Councilmen Johnson, McCarthy, DeRosa, McGrath and approximately 40 interested citizens.

JESSICA DICKINSON/RECREATION DIRECTOR

Jessica Dickinson, Recreation Director expressed gratitude to the summer staff. She said she was happy with the result of the summer programs. She said last year, there were 226 park memberships, which increased to 509 memberships this year, and said that the new equipment in the lake was part of that. She is grateful for the staff and the Town Board's support. Overall, camp registration numbers went from last year \$57,000.00 in registration revenue to \$112,000.00, so revenue was pretty much doubled. This was a wonderful first season to be in Pawling. She talked about upcoming programs for all ages, such as the senior coffee and lunch, pickle ball, weight watchers, yoga, bonfire and the town giving day with the fee going to scholarships for camp, among others.

The Board thanked Ms. Dickinson for her presentation.

MINUTES

Councilman Johnson made a motion to accept the minutes of August 14, 2019, seconded by Supervisor Schmitt, motion passed unanimously.

CONSENT AGENDA

**Resolution 2019112
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 20191119 through 20191226, 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 \$636,920.46.

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 2019113

AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE ISSUANCE OF \$703,200 BONDS OF THE TOWN OF PAWLING, DUTCHESS COUNTY, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OF THE DEWEY LANE BRIDGE ON DEWEY LANE, IN AND FOR SAID TOWN

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Whereas, the capital project hereinafter described, as proposed, has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which regulations state that Type II Actions will not have any significant adverse impact on the environment; and

Whereas, it is now desired to authorize the financing of such capital project,

NOW, THEREFORE, BE IT RESOLVED, by the affirmative vote of **not less than two-thirds of the total voting strength** of the Town Board of the Town of Pawling, Dutchess County, New York, as follows:

Section 1. The reconstruction of the Dewey Lane Bridge on Dewey Lane, including incidental improvements and expenses in connection therewith, in and for the Town of Pawling, Dutchess County, New York, is hereby authorized at a maximum estimated cost of \$703,200.

Section 2. It is hereby determined that the plan of financing of said specific object or purpose is by the issuance of \$703,200 bonds of said Town hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; **PROVIDED, HOWEVER**, that to the extent that any Federal or State grants-in-aid are received for such specific object or purpose, the amount of bonds to be issued pursuant to this resolution shall be reduced dollar for dollar.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is twenty years, pursuant to subdivision 10 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of the Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 6. The faith and credit of said Town of Pawling, Dutchess County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

MOTION: Councilman Johnson

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

Resolution 2019114

AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE ISSUANCE OF \$183,800 BONDS OF THE TOWN OF PAWLING, DUTCHESS COUNTY, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OF THE BOX CULVERT ON WEST MAIN STREET, IN AND FOR SAID TOWN

Whereas, the capital project hereinafter described, as proposed, has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which regulations state that Type II Actions will not have any significant adverse impact on the environment; and

Whereas, it is now desired to authorize the financing of such capital project,

NOW, THEREFORE, BE IT RESOLVED, by the affirmative vote of **not less than two-thirds of the total voting strength** of the Town Board of the Town of Pawling, Dutchess County, New York, as follows:

Section 1. The reconstruction of the box culvert on West Main Street, including incidental improvements and expenses in connection therewith, in and for the Town of Pawling, Dutchess County, New York, is hereby authorized at a maximum estimated cost of \$183,800.

Section 2. It is hereby determined that the plan of financing of said specific object or purpose is by the issuance of \$183,800 bonds of said Town hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; **PROVIDED, HOWEVER**, that to the extent that any Federal or State grants-in-aid are received for such specific object or purpose, the amount of bonds to be issued pursuant to this resolution shall be reduced dollar for dollar.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is twenty years, pursuant to subdivision 10 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said

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bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of the Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 6. The faith and credit of said Town of Pawling, Dutchess County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

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 2019115

AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE ISSUANCE OF \$450,000 BONDS OF THE TOWN OF PAWLING, DUTCHESS COUNTY, NEW YORK, TO PAY THE COST OF THE RECONSTRUCTION OF HURDS CORNER ROAD, IN AND FOR SAID TOWN

WHEREAS, the capital project hereinafter described, as proposed, has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which regulations state that Type II Actions will not have any significant adverse impact on the environment; and

WHEREAS, it is now desired to authorize the financing of such capital project,

NOW, THEREFORE, BE IT RESOLVED, by the affirmative vote of **not less than two-thirds of the total voting strength** of the Town Board of the Town of Pawling, Dutchess County, New York, as follows:

Section 1. The reconstruction of Hurds Corner Road, including drainage improvements and other incidental improvements and expenses in connection therewith, in and for the Town of Pawling, Dutchess County, New York, is hereby authorized at a maximum estimated cost of \$450,000.

Section 2. It is hereby determined that the plan of financing of said specific object or purpose is by the issuance of \$450,000 bonds of said Town hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; **PROVIDED, HOWEVER**, that to the extent that any Federal or State grants-in-aid are received for such specific object or purpose, the amount of bonds to be issued pursuant to this resolution shall be reduced dollar for dollar.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years, pursuant to subdivision 20(c) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of the Supervisor, providing for the manual countersignature of a fiscal agent or of a designated official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Supervisor. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Supervisor shall determine.

Section 6. The faith and credit of said Town of Pawling, Dutchess County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. **THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.**

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

NON CONSENT AGENDA

Resolution 2019116

Introducing Local Law “Short Term Rentals” and Providing for Public Notice and Hearing

Whereas, that an amendment to Pawling Town Code to allow for Short Term Rentals by Permit was 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 on July 10, 2019, and

Whereas, copies of the aforesaid proposed Amendment, which is attached hereto, were laid upon the desk of each member of the Board and were forwarded to the Town of Pawling Planning Board and Dutchess County Planning Department following the July 10, 2019 meeting, therefore,

BE IT RESOLVED, that the Town Board will hold a public hearing on said proposed Amendment at the Pawling Town Hall, in the Town of Pawling, New York at 7 o'clock P.M. on Wednesday, October 9th, 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: Supervisor Schmitt

SECOND: Councilman Johnson

Supervisor Schmitt said a number of Airbnb’s have become a problem in the Town of Pawling and the Board decided to look at regulations to keep them under control and have homeowners abide by the law.

Councilman Johnson said this will also regulate health, safety and welfare issues.

Councilman DeRosa said he had some concerns, such as the fact that this conflicts with the transient home code and boarding house, which are also in the code. Also, he felt that the notification should be changed to be consistent with the planning and zoning board notification requirements. Councilman DeRosa also felt that this does not address the party house issue and felt that a maximum number of people should be put in this proposed law, and the Board should discuss whether or not the code should say that this should be owner occupied. He also felt that in section F, “complete” application should be added so that everyone is clear when the time clock starts.

Jamie Spillane, Town Attorney said the occupancy is based on the number of bedrooms and on what the septic system can handle, as well as parking. Regarding noticing, the Building Inspector will take comments into account before issuing a permit and the form to be filled out by the applicant will ask for comments when sent to adjoining landowners. She said “complete” application could be added.

Councilman DeRosa said he was not ready to move this proposed local law yet, he felt it needed more discussion. He said the Town Board did not accept the recommendations of the Planning Board, yet they are included in the new draft of the proposed local law.

Ms. Spillane said they were not substantive changes, they were clarifications and things of that nature so they were added.

Councilman Johnson felt any changes, even though small, should be made before a public hearing.

Ms. Spillane said the only change she is hearing from the Board is to add “complete” before application, which is not a substantive change. She said regarding the noticing requirement, the Planning Board felt it should be by zoning district.

Councilman McCarthy agreed with eliminating tourist home and boarding house from the code.

Councilman Johnson offered an amendment to Resolution 2019116 to allow the Town’s Attorneys to make changes after reviewing for conflicts with other existing laws for tourist homes and boarding houses, seconded by Supervisor Schmitt, motion passed unanimously.

Following further discussion, Resolution 2019116 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 2019117

Introducing Local Law “Special Events” and Providing for Public Notice and Hearing

Whereas, that an amendment to Pawling Town Code to allow for Special Events by Permit was 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 on July 10, 2019, and

Whereas, copies of the aforesaid proposed Amendment, which is attached hereto, were laid upon the desk of each member of the Board and were forwarded to the Town of Pawling Planning Board and Dutchess County Planning Department following the July 10, 2019 meeting, therefore,

BE IT RESOLVED, that the Town Board will hold a public hearing on said proposed Amendment at the Pawling Town Hall, in the Town of Pawling, New York at 7 o'clock P.M. on Wednesday, October 9th, 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: Supervisor Schmitt

SECOND: Councilman Johnson

Following discussion and comments by the Board, Councilman Johnson made a motion to table Resolution 2019117 in order for additional review and discussion to take place, seconded by Councilman McGrath, motion passed unanimously.

Resolution 2019118

Appointment - Assessor

Whereas, Bernadette Fanuele has served the Town of Pawling as its Assessors Aide since 2014, and

Whereas, Bernadette Fanuele has been deemed qualified to be the Sole Appointed Assessor by the New York State Department of Taxation and Finance in a decision dated June 3, 2019, and

Whereas, the term of office of the Assessor is fixed by Town Law and is set to begin on October 1, 2019, and

Whereas, it is the desire of the Town Board to appoint Bernadette Fanuele to be the Assessor of the Town of Pawling, therefore be it

RESOLVED, that Bernadette Fanuele is hereby appointed to a term commencing on October 1, 2019 as Assessor of the Town of Pawling for the salary of \$60,000 per year, and be it further

RESOLVED, that said term of office shall be six years as fixed by State Law, and be it further

RESOLVED, that Bernadette Fanuele shall continue to meet all of the qualifications and requirements of the New York State Board of Real Property Services.

MOTION: Councilman Johnson
SECOND: Councilman McCarthy

ROLL CALL VOTE:

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

Resolution 2019119
Pawling Community Foundation Great Lawn Project

Whereas, the Pawling Community Foundation has developed a plan to improve the fields at Lakeside Park known as the Great Lawn, and

Whereas, the Pawling Community Foundation has committed to the Pawling Town Board that they will be able to complete this project within the next 2 years, and

Whereas, the Pawling Community Foundation will also assist in reducing and beautifying the pile of dirt at Lakeside Park, and

Whereas, the Pawling Town Board supports the Pawling Community Foundation’s plan to improve the Great Lawn within the next 2 years, therefore, be it

RESOLVED, the Pawling Town Board does hereby unanimously and enthusiastically approve the Pawling Community Foundation’s plan to improve the Great Lawn at Lakeside Park.

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 2019120
Health Insurance

WHEREAS, as set forth in Section 806 of Town of Pawling Employee Handbook (the “Handbook”) at Section 806, as amended by Resolution dated December 16, 2009, and Resolution dated October 18, 2018:

- (1) the Town will pay the full premium for individual health insurance coverage for elected officials and full time employees, and
- (2) full time employees enrolled in the family plan must contribute 15 % of the difference between the family plan premium and the individual premium; and
- (3) the Town Clerk and the Superintendent of Highways enrolled in the family plan must contribute 15% of the premium for the family plan;
- (4) All other elected officials enrolled in the family plan must contribute 30% of the premium for the family plan; and

WHEREAS, in an effort to reduce expenditures, the Town Board wishes to amend the Handbook to amend the provisions regarding contributions toward the health insurance premium; and

WHEREAS, pursuant to the Compensation Clause of the New York State Constitution, the Town may not change the compensation of a Town Judge during that Justice’s term, and that the Town Board therefore may not require a contribution from its Judges, who are elected officials, until the current term has expired; and

WHEREAS, the Town Board believes it to be in the best interests of the Town to impose a 30% contribution requirement toward the health insurance premium from Elected Officials, with the exception of the Town Clerk, the Superintendent of Highways, who will pay fifteen (15%) percent of the health insurance premium and the Judges; and

WHEREAS, the Town Board intends to impose a contribution of thirty (30%) of the health care premium upon Judges at the commencement of the new terms of office; and

WHEREAS, the

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling does hereby approve the amendment of Section 806 “Medical Insurance,” the subsection entitled “Premium Payment” of the Town of Pawling Employee Handbook as follows:

“Premium Payment.

Full Time Employees. The Town will pay the full premium for individual insurance coverage, as the case may be, for each eligible Full Time employee. Full time employees who enroll in the family medical plan must contribute fifteen (15%) percent of the difference between the premium for individual and family coverage.

Elected Officials. Elected Officials, with the exception of the Town Clerk and Superintendent of Highways, must pay thirty (30%) percent of the premium for health insurance coverage. The Town Clerk and the Highway Superintendent shall pay fifteen (15%) percent of the health insurance coverage premium.

BE IT FURTHER RESOLVED, that this provision of the Handbook shall apply to Judges at the commencement of the next new term of office; and

BE IT FURTHER RESOLVED, that this provision shall apply to all other elected officials and full time employees commencing January 1, 2020; and

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.

DISCUSSION ON RESOLUTION 2019120:

Councilman Johnson said feeling that there is not the support to pass Resolution 2019120, he asked Supervisor Schmitt to table this resolution so there could be further discussion and the Board could arrive on something that is financially beneficial to the community, and serves the purpose the Board is looking to achieve. There is no doubt in his mind that contributions will change and he asked Supervisor Schmitt to consider that before we go forward and have what may not turn out to be a good, healthy discussion.

Supervisor Schmitt said the Board has had a lot of discussions about this. Board members have discussed this and he has spoken to different healthcare providers and other towns. He felt moving forward was what needed to happen. This has been discussed at length. He is looking at a 30% contribution across the board and a 15% contribution from the Town Clerk and Highway Superintendent positions because they are full time, even though they are elected, which is why he is proposing a lesser contribution. He felt this was a great proposal and he absolutely was going to put it to a vote tonight. If people here don't want to vote for it, they can do it publicly right now.

Councilman McGrath said he is ready to vote for the 30%, he felt it was a good compromise that the Board has finally gotten to, but he would like to see the amendment to remove the Clerk and Highway Superintendent's 15% contribution from this resolution.

Councilman Johnson said it is an elected position, why should they not contribute. It is the Board's responsibility as the fiscal board of this town to control expenses and do what is right.

Councilman McGrath said he wanted to continue to attract great Town Clerks and Highway Superintendents.

Supervisor Schmitt felt the town had a great Town Clerk and Highway Superintendent, they do a wonderful job, but felt this was a fair proposal.

Councilman McGrath agreed but felt the Town Clerk and Highway Superintendent should not be included in the resolution.

Councilman DeRosa agreed with Councilman McGrath, saying that the Town Clerk and Highway Superintendent work full time. All of the other elected officials who work here have other jobs. The Town Clerk and Highway Superintendent should be treated the same as other employees. He also felt that, just like the judges, he felt that even the Tax Collector should be changed once the position was up for reelection. He felt that the Town Board should lead by example. He would support the increase to 30% for the Town Board members, or getting rid of health benefits for the Town Board members and elected officials but he would be in favor of raising the salaries to compensate them for health insurance. He was not in favor of raising the Town Clerk or Highway Superintendent because they work full time and they are different.

Councilman Johnson said there is no rule that states how many hours a Highway Superintendent or Town Clerk has to work, it is still an elected position that they choose to run for. The difference between 10% and 15% is \$25.00 per week, peanuts. Every one of those positions has a deputy and this is not unfair. If the Supervisor moves this resolution, he would gladly second it and vote in favor of it.

Councilman McCarthy agreed with Councilmen McGrath and DeRosa on this. Their positions have always been based on what the employees contribute. There is a union contract coming up in two years, which will be negotiated with the Union. He felt it hard to change any employee or the Clerk or Highway Superintendent until that contract has come to the Board and is negotiated. Whether it is a 10% or 12% increase, the Clerk and Highway Superintendent have always been based on what the employees get and he did not think they should be changed now until the Union contract is negotiated. He did not think the Board should talk about changing the employees until 2021.

Following further discussion, the following action was taken on Resolution 2019120, and it did not pass:

MOTION: Supervisor Schmitt

SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – "AYE"

Councilman DeRosa – "NAY"

Councilman McCarthy – “NAY”

Councilman McGrath “NAY”

Supervisor Schmitt – “AYE”

Supervisor Schmitt made a motion to eliminate the healthcare benefit completely for every elected official commencing each new term of office, seconded by Councilman Johnson and did not pass with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “NAY”

Councilman McCarthy – “NAY”

Councilman McGrath “NAY”

Supervisor Schmitt – “AYE”

Councilman McCarthy made a motion to pass Resolution 2019120, eliminating increases for the Town Clerk and Highway Superintendent, seconded by Councilman McGrath and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “NAY”

TRI VALLEY BROADCASTING WAIVER

Supervisor Schmitt made a motion to waive the fee for Tri Valley Broadcasting as requested, seconded by Councilman Johnson, motion passed unanimously.

WHALEY LAKE DAM

Supervisor Schmitt said he would give updates on the progress as he gets information. He spoke with the former engineer and the Town’s concerns have been documented to them and they are doing their own study. The Town is not going to stop moving forward. He hoped to have more information by the October meeting. If there is information before that, he would get the information out to the residents.

PUBLIC COMMENT

Vinny DiMarco thanked the Board for what they do and for the discussion on a delicate subject. What matters to him is that they really care about what they do. Regarding the short term rental proposed local law, he suggested language be added to say that all lots within a non-conforming zone have a certain number of people that could be entertained for that special event. He thanked the Pawling Fire Department for raising the flag over the remnant of the twin towers this morning, he was very touched.

Glenn Carey commended Councilmen DeRosa, McGrath and McCarthy for their action on health insurance, they did the right thing. What really would have been appropriate would have been for the Town Board to revoke just the Town Boards benefits, but at most to take away the family health insurance. He felt it was an unfair benefit and he did not feel Town Board members should be entitled to that benefit. When he says that, he is not talking about all elected officials, he is talking about the Town Board members. Regarding the Town Clerk and Town Highway Superintendent, the days that those people work part time and had other full time jobs are long gone. These individuals work full time here in this town and do a damn good job. They serve the public, are here every day and in their offices all of the time. This is their livelihood, it

is not the Board's livelihood, and the Board is playing with their livelihood. Talking about \$25.00 per week, which is \$1300.00 per year, that is not peanuts to someone who is in a public position like the Town Clerk or Town Highway Superintendent. To refer to it as peanuts is insulting to them. The responsibility to control expenses should start with the Town Board, and they should revoke their family coverage. If retirees are grandfathered, which they should be, would the Town Board have to pay a percentage of the health coverage going forward or would they fall under the old rules once they retire.

Supervisor Schmitt said retirees weren't addressed, just the current elected officials. He felt it was difficult and unfair to go after retired people. To Mr. Carey's point, there was a motion to eliminate the benefit for all elected people tonight, which was shot down.

Mr. Carey said he did not support that and he felt the three Councilmen did the right thing for the Town Clerk and Town Highway Superintendent. This is their livelihood and most of the Board members have jobs and can find benefits somewhere else. He felt the Board should vote to eliminate the family health plan. There is a pay inequity for Board members who take the benefit verses members who do not. Town Board members are part time, not full time.

Joe Marotta, Chairman of the Whaley Lake Dam Committee asked if the town is interviewing new engineers.

Supervisor Schmitt said yes, he is interviewing an engineering firm but no one has been hired yet.

Mr. Marotta asked what the elevation number was.

Supervisor Schmitt said for finished height is 705.7, which is twelve inches above the spillway. There is a discrepancy in the documents.

Mr. Marotta said they have looked at many different things and the number they came up with was fifteen inches over the spillway, so twelve inches doesn't get them to where they need to be. So this needs to be looked at very carefully.

Supervisor Schmitt said before this comes to fruition, the studies will be done and engineering will be done and it will all be taken into consideration, and the committee will be consulted.

Philip van Buren, Director of the Oblong Land Conservancy with offices at 517 Route 22, said the Oblong Land Conservancy has an interest in sound planning in the Town of Pawling. In the 2019 adopted budget, there was an increase in the budget for contractual planning in the amount of \$60,000.00. He asked if any of this has been spent and if so, on what. If not, what is the intention to do with those funds and what is proposed for the 2020 budget?

Supervisor Schmitt said he would look into this request and get back to Mr. van Buren as soon as possible.

Helen Grosso said it was impressive to see the discussion, but weird to watch and she still didn't understand where people stood on eliminating it. She did not think it was right that you have to treat a whole group of elected officials the same because some are clearly part time, she felt the Tax Collector and Judges were part time also. Other towns don't need to offer health benefits to attract an intelligent and capable judge. She did not feel three judges were needed in Pawling, the Village judge doesn't get health coverage. She asked the Board to keep going and don't give this up. Lifetime health benefits are killing us. She suggested eliminating the 55 year old start. It was good to see this vote finally happen. She asked if the Town Clerk and Highway Superintendent would be treated as employees and pay what employees are paying.

Councilman McCarthy said yes.

Mrs. Grosso asked if Bernadette Fanuele would be paid \$60,000.00 and work five days per week and will be full time.

Supervisor Schmitt said that is correct and there would be no clerk, she will be doing the job by herself. It is an increase in service and a savings to the community.

Mrs. Grosso said she is gathering information from other towns and she would give it to the Board as soon as possible.

Mr. Carey said he always refer to the Judges and Tax Collector as part time employees.

Mindy Franklin Levine, resident from 826 Old Quaker Hill Road, said she would like to buy the dirt pile for a project she is doing. She felt it was a win win and she is willing to pay market value for the dirt.

Supervisor Schmitt said he did not know the legalities of selling the dirt were. It would have to be discussed with the Town's attorney.

Mrs. Levine agreed with Councilman DeRosa's point about adjacent neighbors being notified about special events. She felt it was important that they know what is going on around them and have some say. Watching the discussion tonight, she felt it was heartwarming to watch the debate. Democracy at its finest was exercised tonight, and everyone has a voice.

Rick Wilson, resident from 64 Lakeview Drive, Holmes thanked the Board members for working on the Whaley Lake issue. He understood there was a lot going on. One thing that was discussed was the Fuss & O'Neill drawing of May 2014, page 6, first paragraph where it stated that the water levels on Whaley Lake would be restored to normal pool levels at 705.9 inches. He asked if the Committee could get a copy of that. The dialogue by the Board is tremendous and he respected the fact that things were done wrong but would be done right now.

Supervisor Schmitt said yes, the Committee can get a copy of the drawing.

Karen Burka, resident from South White Rock Road, Holmes, said she wanted to make a comment on the special event proposed ordinance. She lives across from Crystal Park, owned by Thomas Chen. Mr. Chen has bought a lot of property and claims it is not a commercial venture, but it is. The property is being used for large groups and lots of building that has never been permitted. She asked that these ordinance have teeth so that things can be enforced. This has been going on for three or four years and as a homeowner, she would like to see rules that can be enforced.

Supervisor Schmitt said enforcement ability is being written into these proposed local laws.

Paul Malichek, resident from 70 Lakeview Drive, said regarding the Airbnb proposed ordinance, he felt that the idea that using what the septic can handle was a good idea. He felt the number of people could be limited, and also require on-site parking in the ordinance. He thanked the Board for their work on the lake.

Lori Johnson announced the Rotary Fall Festival, which will have activities for kids of all ages. It will be held on September 28th from 11:00 AM to 4:00 PM and is free of charge. There are a lot of great sponsors.

The motion to adjourn was made at 8:50 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 subject to the penalties of Chapter 11 of the Code of Pawling, and the penalties set forth below.

(5) Owners of existing Short Term Rentals must file for a permit within 90 days of the effective date of this local law in order to be in conformity with the local law.

C. Notification to Neighbors: As a condition precedent to submitting an application for a Short Term Rental Permit, the applicant must send written notification to all property

owners within the following radius of the subject property of the applicant's intent to apply for a Short Term Rental Permit, by certified mail, return receipt requested:

- (1) If a subject property is located partially or wholly within a commercial zoning district, the Highway Business, or CD-5 Zoning District, a radius of 500 feet;
- (2) If a subject property is located partially or wholly within the R-3 or R-4 Zoning District, a radius of 300 feet; or
- (3) If a subject property is located partially or wholly within the R-1 or R-2 Zoning District; a radius of 150 feet.

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 the specified distances 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 detailed 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 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 detailed 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 outdoor 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 must 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. A copy of the complaint must be provided to the Building 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, following prosecution consistent with the laws of the State of New York:

(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) 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.

Dated: _____, 2019

BY THE ORDER OF THE TOWN BOARD
TOWN OF PAWLING

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 215 Section 215-35 Performance Standards of the Code of the Town of Pawling.
- 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.
- 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 60 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 \$2,000,000 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 10' X 20' per car, as per the code of the Town of Pawling.
 - (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. No off-site lighting is allowed onto any adjoining property.
 - (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 Building Inspector 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 60 days prior to a proposed event to the Town Building Department.

- B. Upon receipt of an application, the Building Inspector shall review the application, in conjunction with the Town Fire Marshal, 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 and Development, 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 security/law enforcement at the event.
 - (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 granting 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.
- 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.

Dated: _____, 2019

BY THE ORDER OF THE TOWN BOARD
TOWN OF PAWLING