

**Introductory Local Law 2 of 2017**

**A LOCAL LAW CREATING CHAPTER 65 OF THE CODE OF THE TOWN OF WOODBURY ENTITLED  
“TAXPAYERS PROTECTION ACT”**

BE IT ENACTED by the Town Board of the Town of Woodbury, Orange County, New York, as follows:

**Section 1.** A new Chapter 65 of the Town Code is enacted as follows:

**CHAPTER 65 – TAXPAYERS PROTECTION ACT**

**§65-1 Title and Authority**

**§65-2 Purpose**

**§65-3 Application of Law**

**§65-4 Appeal Rights**

**§65-5 Additional Rights of Town**

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**§65-1 Title and Authority**

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

**§65-2 Purpose**

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

**§65-3 Application of Law**

Any and all such specific and non-general costs or expenses incurred by the Town in reviewing any application or petition for any license, franchise agreement, amendments to any approved text of the Town Code, as well as any other submissions to the Town Board or otherwise enforcing the rights of the Town regarding a specific applicant or property owner which require the use or employment of Town Counsel, Special Legal Counsel, Bond Counsel, Transactional Counsel or other legal advice or representation, consultants, engineers, experts, accountants, appraisers or other professionals or persons that may be deemed reasonably necessary by the Town to review, act upon or otherwise provide advice on any such matter shall be charged to and paid solely by the applicant or petitioner as well as property owner involved or other person seeking relief or otherwise responsible to the Town that makes such specific and non-general action or review by the Town appropriate or necessary. Any such costs paid or incurred by the Town that are reasonable and customary in the County of Orange regarding the foregoing shall be charged to and paid by the applicant as well as property owner involved provided the applicant as well as property owner involved is seeking a benefit or other relief or approval

from the Town and said costs are necessary expenditures, and not expenditures for the convenience of a Board in fulfillment of its own decision-making responsibilities. Said legal cost shall be reasonable in amount and shall not exceed five (5%) percent of the cost of the fair market value of the estimated cost of construction or the infrastructure and other site improvements involved in said application. The payment of such costs shall be deducted from an escrow account to be established for such application in amount determined by the Town in accordance with the Town's fee schedule or as determined by Town Board Resolution. Such escrow account must be maintained in an amount sufficient to pay such fees or costs at the time they are incurred and must be replenished as directed by the Town.

#### **§65-4 Appeal Rights**

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

#### **§65-5 Additional Rights of Town**

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

#### **Section 2. Severability**

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

**Section 3.      Effective Date**

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