

## Article XIV. Fee Reimbursement

### A. [Intent](#)

### B. [Applications Subject to Fees](#)

#### A. Intent.

The intent of the Town Board is to provide a mechanism for the reimbursement of fees and expenses, incurred in connection with applications before the Town of Rhinebeck Town Board, Planning Board, Zoning Board of Appeals, Zoning Enforcement Officer, and any other Town agency or department, for (a) Special Permit, Site Plan, Variance or Subdivision review and approval, (b) Zoning Amendment, (c) Interpretations, (d) Wetlands Permits, (f) Development Permits and (g) any other permit or approval sought from any agency or department of the Town of Rhinebeck, and to defray the cost to the Town for the retention of engineering, planning, legal and other consultants to review such applications and projects. [\[Back\]](#)

#### B. Applications Subject to Fees.

1. Every application for a permit or approval described in paragraph “2” below shall be accompanied by such fees as set forth on the Fee Schedule adopted, and amended from time to time, by the Town Board.
2. Every applicant, and landowner if different, shall be jointly and severally responsible for payment of all reasonable and necessary costs of Consultant Services (defined hereafter), where the Town Board, Planning Board, Zoning Board of Appeals, Zoning Enforcement Officer, and/or any other Town of Rhinebeck agency or department uses the services of engineers, planners, attorneys or other consultants (collectively, “Consultant Services”):
  - a. For purposes of engineering, scientific, planning, environmental and/or legal reviews of the adequacy or substantive details of applications, or issues raised during the course of review of such applications, for:
    - i. Special Use Permits;
    - ii. Site Plans;
    - iii. Subdivision of Land;
    - iv. Sign Permits;
    - v. Use Variances;
    - vi. Area Variances;
    - vii. Applications for rezoning of parcels to accommodate site-specific land development proposals or otherwise;
    - viii. Applications to amend the provisions of the Town Code;
    - ix. Lot line Alteration or Consolidation;
    - x. Interpretations of the Town Code;
    - xi. Highway Permits;

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- xii. Driveway permits
  - xiii. Freshwater Wetland Permits;
  - xiv. Development permits pursuant to Town Code §73-11; or
  - xv. Any other principal or ancillary land use or development permits or approvals permitted or required under the Town Code, and/or
  - xvi. To assist in assuring or enforcing an applicant's compliance with the terms and conditions of all the aforementioned administrative and legislative permits or approvals. In no event shall that responsibility be greater than the actual cost to the Town of such Consultant Services. The review expenses provided in this subparagraph "2" are in addition to application or administrative fees required pursuant to any other provisions of this Article and the Town Code.
3. The Town Board, Planning Board, Zoning Board of Appeals and/or Zoning Enforcement Officer may require advance periodic monetary deposits ("Escrow Deposits"), to be held on account of the applicant or landowner (the "Escrow Account"), by the Town of Rhinebeck to secure the reimbursement of the Town's Consultant Service expenses. Escrow Deposits shall be made and maintained according to the Schedule of Escrow Funds periodically adopted and updated by the Town Board. The Town may make payments from the deposited funds, for Consultant Services, after audit and approval by the Town Board of itemized vouchers for such services. Upon request, the Town shall supply copies of such vouchers to the applicant, appropriately redacted where necessary to shield legally privileged communications between Town officers or employees and the Town's consultants. When the Escrow Account is depleted as set forth on the Schedule of Escrow Funds, the Town shall cause the applicant or landowner to deposit additional sums into the Escrow Account, pursuant to the Schedule of Escrow Funds, to meet such expenses. Notwithstanding the foregoing, when it appears to the Town that pending or anticipated vouchers will deplete the Escrow Account below the minimum permitted levels set forth on the Schedule of Escrow Funds, then Town shall cause the applicant or landowner to deposit additional monies into the Escrow Account, in the same manner as if the actual balance in the Escrow Account had fallen below minimum permitted levels set forth on the Schedule of Escrow Funds.
4. The Town Board shall review and audit all vouchers and shall approve payment only of such engineering, legal and other consulting expenses as are reasonable in amount and necessarily incurred by the Town in connection with the review and consideration of any application as set forth in paragraph "2" above, or for the monitoring, inspection or enforcement of any permits or approvals or the conditions attached thereto. For the purpose of this review and audit, a fee shall be reasonable in amount if it bears a reasonable relationship to the average charge by engineers, planners, attorneys or other consultants to the Town for services performed in connection with similar applications or if there be no similar projects within the Town, then for similar projects located in Dutchess and Columbia Counties and the surrounding area, to the extent that such similar projects may exist. In this regard, the Town Board may take into consideration the complexity, both legal and physical, of the project proposed, including without limitation, the size, type, and nature of the project, number of buildings to be constructed, the

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- amount of time to complete the project, together with any special features but not limited to, the topography of the land on which such project is located, environmental conditions and natural and cultural resources on and surrounding the project site, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities or parks to be constructed and special conditions or considerations as the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it was charged by the engineer, planner, attorney, or other consultant for a service which was rendered in order to protect or promote the health, safety, welfare or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other environmental factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities, to correct any defects arising during any post-dedication maintenance period, avoid claims and liability, and such other interests as the Town may deem relevant.
5. The owner(s) of the subject real property, if different from the applicant, shall be jointly and severally responsible to reimburse the Town of Rhinebeck for funds expended to compensate for services rendered to the Town under this section by private engineers, planners, attorneys or other Consultant Services. In order for a land use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, planning, legal and other consulting fees incurred by the Town (collectively, "Consultant Services' Fees"). In the event of failure to reimburse the Town for such fees, the following shall apply:
    - a. The Town may seek recovery of unreimbursed Consultant Services' fees by action brought in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney's fees expended by the Town in prosecuting such action.
    - b. Alternatively, and at the sole discretion of the Town, a default in reimbursement of such Consultant Services' fees expended by the Town shall be remedied by charging such sums against the real property which is the subject of the land development application, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as Town-assessed taxes and shall be paid to the Town Comptroller, to be applied in reimbursing the fund from which the costs were defrayed for the Consultant Services' fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.
  6. Upon submission of an application for any permit or approval covered under this Article XIV, and prior to being placed on any agenda, the applicant and/or owner shall deposit such funds as required pursuant to the Schedule of Escrow Funds, together with any applicable fees as set forth on the Town of Rhinebeck Schedule of Fees, each as may be

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periodically adopted and updated by the Town Board. In the event any Escrow Deposit is depleted below the minimum permitted amount, the application shall be removed from the agenda of the reviewing board and review of such application shall cease and shall not recommence until such time as the Escrow Deposit has been replenished as required. In no event shall the Chairman of the Planning Board sign a final Site Plan or Subdivision Plat unless and until all Consultant Services' Fees incurred by the applicant have been paid. In all cases, no Certificates of Occupancy shall be issued unless and until all Consultant Services' Fees incurred by the applicant have been paid.

7. Every applicant, and landowner, if different, shall, upon submission of an application subject to the provisions of this Article XIV, execute and deliver an escrow agreement, acceptable in form and content to the Attorney to the Town, acknowledging the obligations set forth herein.
8. Any individual or entity seeking a pre-application conference with, or review by, any Consultant shall be subject to the provisions of this Article as if they submitted an application to the respective Board which will ultimately review such application. The decision to grant any pre-application conference or review shall be at the discretion of the Town and its Consultants. If granted, the individual or entity shall proceed at their own risk with no guarantee or assurance regarding the ultimate outcome of any application brought before the Town.
9. In the event that a Positive Declaration is made in accordance with the New York State Environmental Quality Review Act (SEQR), all subsequent consultant review fees that are necessary for the preparation or review of an Environmental Impact Statement (EIS) shall be reimbursed to the Town in accordance with the procedures established under SEQR and under this Zoning Law. The applicant shall maintain the basic escrow account for the continued review of the application that is not directly related to the preparation or review of an EIS. The Town may require the applicant to establish a separate escrow account for the consultant services costs necessary for the preparation or review of an EIS. All deposits, reimbursements and refunds shall be made in accordance with the provisions of this Zoning Law.
10. Notwithstanding the provisions of B(1) through B(9) above, no escrow shall be required for any application to the Zoning Board of Appeals unless the Zoning Board determines that the subject application will require Consultant review. If such a determination is made by the Zoning Board of Appeals, at any time prior to final approval of any application before it, then the provisions of B(1) through B(9) above shall be fully applicable as if they had been required upon submission of the initial application. [\[Back\]](#)