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NOTICE OF PUBLIC HEARING
VILLAGE OF PENN YAN

Proposed Local Law to Amend Planning Board and Zoning Board of Appeals Article of the Zoning Chapter of the Code of the Village of Penn Yan

Notice is hereby given that a Public Hearing by the Board of Trustees of the Village of Penn Yan, County of Yates, State of New York, will be held at the Village Office, 111 Elm Street, Penn Yan, New York, on the 20th day of May, 2025, at 6:00 p.m. upon the proposed Local Law.

The effect of this Local Law is to amend the Planning Board and Zoning Board of Appeals provisions of the Zoning Chapter with respect to terms of office, training requirements, reappointment criteria and consultant costs for both Boards.

The Village Hall is in compliance with accessibility standards of the Americans With Disabilities Act. Any person with a handicap wishing to attend and/or be heard at the public hearing should contact the Village Clerk's Office at least five (5) business days prior to the date of the public hearing to request any special needs.

All persons interested in this proposed Local Law will be heard by the Board of Trustees at the Public Hearing to be held as stated above. A copy of the proposed Local Law may be examined at the Office of the Clerk of the Village of Penn Yan, 111 Elm Street, Penn Yan, NY 14527 during regular business hours and on the Village website www.villageofpennyan.com. Written comments may be submitted to the Village Clerk's Office by US mail at 111 Elm Street, Penn Yan, NY 14527. Comments must be received no later than 12:00 p.m. (noon) on May 20, 2025.

Holly Easling, Village Clerk/Treasurer
Village of Penn Yan

Proposed 4-8-25 version
Local Law Filing

NEW YORK STATE DEPARTMENT OF
STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Penn Yan

Proposed Local Law C of the year 2025

A Local Law providing that Article VIII, “Site Plan Review”, Article XIA “Planning Board”, of Chapter 202 “Zoning”, and Section 202-76 “Establishment and Duties” of Zoning Board of Appeals (ZBA) of Chapter 202 “Zoning” of the Code of the Village of Penn Yan be amended.

Be it enacted by the Village of Penn Yan as follows:

Section 1. Legislative Intent and Findings

The Board of Trustees finds that terms and conditions of membership of the Village Planning Board and the Village Zoning Board of Appeals needs modification by reducing terms and specifying certain grounds for removal and reappointment. Further, the Board of Trustees find that it is in the best interest of the Village that the Planning Board and ZBA require payment of consultant costs by applicants when appropriate for the application which the Board is considering. Lack of volunteers to serve as members on the Boards is creating difficulty to staff those Boards. An incentive to encourage training by the Boards is also needed.

Section 2. Short Title.

This Local Law shall hereafter be known as: “The Village of Penn Yan Planning Board and Zoning Board of Appeals Amendment of 2025.

Section 3. Legislative Authority

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law (MHRL) of the State of New York and Article 7 of the Village Law of the State of New York, with the procedural provisions of the Municipal Home Rule Law controlling.

Section 4. Provisions.

I. The following Section is added numerically to Article VIII, “Site Plan Review” of Chapter 202, “Zoning”, of the Code of the Village of Penn Yan:

Section-39.1.1. Site plan Review Expenses.

(1) In addition to the site plan application fee established by the Board of Trustees, costs projected to be incurred by the Planning Board for consultation fees with respect to engineering, legal, architectural, surveying or other like expenses related to the site plan review shall be the sole responsibility of the applicant.

(2) Upon receipt of a site plan and/or special use permit application, the applicant and the applicant's representative, if any, shall receive a written notice of this responsibility. The determination of the need for retaining such consultants/experts shall be in the sole discretion of the Planning Board and consultants/experts shall be chosen solely by the Planning Board.

(3) The Planning Board shall notify the applicant as soon as is reasonably possible of the need for such consultants/experts. Such notification shall be in writing directed to the applicant and the applicant's representative, if any. In the event that such a determination is made during a meeting at which the applicant and/or the applicant's representative is present, such determination shall be made known verbally and placed in the record of the meeting, followed up with the written notification specified above.

(4) The applicant shall be advised of an estimate of the costs of such consultant(s)/expert(s). Reasonable efforts shall be made to advise applicant of the estimated costs for such consultant(s)/expert(s). Any changes in the costs for consultants/experts shall be made known to applicant and/or applicant's representative as soon as is reasonably possible. Any change in cost shall not relieve applicant or responsibility for payment.

(5) In any event, payment of any such costs incurred by the Village for consultants/experts for the site plan review shall be paid to the Village by or on behalf of the applicant prior to issuance of any permits, certificates or other documents required for the implementation of the site plan approval or conditions imposed upon the site plan approval and issuance of a special use permit.

(6) In the alternative, the Planning Board may determine, in its sole reasonable discretion, that the applicant be required to establish an escrow fund with the Village of Penn Yan. That determination and the amount of the escrow fund shall be based upon the perceived complexity of the site plan review and special use permit application, the type and number of consultants/experts that may be required and the estimated cost for such consultation(s). The refusal of an applicant to establish an escrow fund as directed by the Planning Board shall result in disapproval of the site plan application and/or special use permit application.

Consultant/experts costs shall be paid from the applicant's escrow fund. Upon completion of the site plan review and special use permit application process, the rendering of a decision thereon and payment of all consultant/expert costs, any balance remaining in the applicant's escrow fund shall be refunded to the applicant. Escrow funds shall be deposited with a banking institution under the name of the Village of Penn Yan. Such escrow funds shall be managed pursuant to standard municipal finance guidelines.

II. Section 202-75.1, "Creation and Membership" of Article X1-A, "Planning Board", of Chapter 202 "Zoning" of the Code of the Village of Penn Yan is amended to provide as follows:

202-75.1 Creation and Membership.

A. There shall be a Village Planning Board appointed by the Mayor, subject to the approval of the Board of Trustees, of which Board shall consist of five (5) members and two (2) alternate members. All members and alternate members shall be residents of the Village of Penn Yan at

the time of their appointment and throughout their term of office. The Mayor shall designate the Chairperson of the Planning Board at the time of appointment of the members. Members and alternate members shall be appointed for terms of one (1) year. In the event that a vacancy shall occur other than by expiration of term, such vacancy shall be filled by appointment for the unexpired term by the Mayor, subject to the approval of the Board of Trustees. Terms shall commence on the first Monday in April of each year. Existing terms of office exceeding one (1) year in length shall become a one (1) year term upon expiration of the existing terms subsequent to the effective date hereof.

B. Any member or alternate member of the Planning Board may be removed for cause by the Board of Trustees, subsequent to public hearing. Such public hearing shall be held upon ten (10) days written notice to the member or alternate member who is subject to such removal. Such written notice shall include the facts alleged to create the cause for removal from the Planning Board.

C. Each Planning Board member and alternate member shall comply with the training requirements of Village Law § 7-718.7-a which shall be a minimum of four (4) hours per year as more specifically provided for in said Section of the Village Law. Training hours in any year shall not carry over to subsequent terms of office. Training shall occur by Board members and alternate members as a group with discussion thereof by members as a unit.

D. The Board of Trustees shall also provide for such expenses of the Planning Board as may be necessary and proper.

III. Section 202-76, “Establishment and Duties”, of Article XII, “Zoning Board of Appeals” of Chapter 202, “Zoning”, is amended to provide as follows:

Section 202-76 Establishment and duties.

A. The Village Mayor shall appoint members of the Zoning Board of Appeals consisting of (5) members and two (2) alternate members subject to the approval of the Board of Trustees. All members and alternate members shall be residents of the Village of Penn Yan at the time of appointment and throughout their term of office. The Mayor shall designate the Chairperson of the Zoning Board of Appeals at the time of appointment of the members.

B. Members shall be appointed for terms of one (1) year. In the event that a vacancy shall occur other than by expiration of term, such vacancy shall be filled by appointment by the Mayor for the unexpired term subject to the approval of the Board of Trustees. Terms shall commence on the first Monday in April of each year. Existing terms of office exceeding one (1) year in length shall become one (1) year terms upon expiration of the existing terms subsequent to the effective date hereof.

C. Any member or alternate member may be removed for cause by the Board of Trustees, subsequent to public hearing. Such public hearing shall be held upon ten (10) days written notice to the member or alternate member who is subject to such removal. Such written notice shall include the facts alleged to create the cause for removal from the Zoning Board of Appeals.

- D. Each Zoning Board of Appeals member and alternate member shall comply with the training requirements of Village Law Section 7-712.7-a, which shall be a minimum of four (4) hours per year as more specifically provided for in said Section of the Village Law. Training hours in any year shall not be carried over to subsequent terms of office. Training shall occur by Board members and alternate members as a group with discussion thereof by member as a unit.
- E. The Board of Trustees shall also provide for such expenses of the Zoning Board of Appeals as may be necessary and proper.
- F. Staff. The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Village Board of Trustees for that purpose.
- G. Powers and duties. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Chapter, including all variance applications.
- H. All variance applications shall be subject to a public hearing. The Board shall fix a time and place for a public hearing thereon and shall provide for the giving of notice as follows:
- (1) By publishing a notice in the official newspaper not less than five (5) days prior to the public hearing date.
 - (2) By posting a notice on the official Village billboard at the Village Hall no less than five (5) days prior to the public hearing date.
 - (3) By requiring a white-with-black-lettering sign or signs, measuring not less than two feet high and two feet wide, which shall be prominently displayed on the premises subject to the variance application facing each public street on which the property abuts, giving notice that an application for an appeal is pending and a phone number to contact for information on the appeal. The sign shall not be set back more than 10 feet from the street line or sidewalk. The signs shall be placed by Village personnel and shall not be removed or relocated prior to the hearing on the variance. The sign shall be furnished by the Zoning Board of Appeals and shall remain the property of the Village, shall be removed by Village personnel subsequent to the hearing and shall be placed not less than three (3) feet nor more than six (6) feet above the grade at the street line. The sign shall be displayed for a period of not less than seven days immediately preceding the public hearing date. By submission of an application for a variance, the property owner consents to the notice sign(s) being placed on the subject property by Village personnel in accordance herewith.
 - (4) In the event that the land involved in an application for a variance is within 500 feet of the boundary of the Village, notice of the public hearing shall also be mailed to the municipal clerk of the Town from which the Village boundary line is located within 500 feet from the subject property, at least ten (10) days in advance of the public hearing date.

I. Rules of procedure; bylaws; forms. The Zoning Board of Appeals shall have the power to make, adopt and promulgate such written rules of procedure, bylaws and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this chapter.

IV The following Sub-section is added to Section 202-76, “Establishment and duties”, of “Article XII, “Zoning Board of Appeals”, of Chapter 202, “Zoning”, of the Code of the Village of Penn Yan:

E. Zoning Board of Appeals Expenses.

(1) In addition to any fee established by the Board of Trustees for application to the Zoning Board of Appeals, costs projected to be incurred by the Zoning Board of Appeals for consultation/experts fees with respect to engineering, legal, architectural, surveying or other like expenses related to the application shall be the sole responsibility of the applicant.

(2) Upon receipt of an application, the applicant and the applicant’s representative, if any, shall receive a written notice of this responsibility. The determination of the need for retaining such consultants/experts shall be in the sole discretion of the Zoning Board of Appeals and consultants/experts shall be chosen solely by the Zoning Board of Appeals.

(3) The Zoning Board of Appeals shall notify the applicant as soon as is reasonably possible of the need for such consultants/experts. Such notification shall be in writing directed to the applicant and the applicant’s representative, if any. In the event that such a determination is made during a meeting at which the applicant and/or the applicant’s representative is present, such determination shall be made known verbally and placed in the record of the meeting, followed up with the written notification specified above.

(4) The applicant shall be advised of an estimate of the costs of such consultant(s)/expert(s). Reasonable efforts shall be made to advise applicant of the estimated costs for such consultant(s)/expert(s). Any changes in the costs for consultants shall be made known to applicant and/or applicant’s representative as soon as is reasonably possible. Any change in cost shall not relieve applicant of responsibility for payment.

(5) In any event, payment of any such costs incurred by the Village for consultants for the site plan review shall be paid to the Village by or on behalf of the applicant prior experts to issuance of any decisions by the Zoning Board of Appeals.

(6) In the alternative, the Zoning Board of Appeals may determine, in its sole reasonable discretion, that the applicant be required to establish an escrow fund with the Village of Penn Yan. That determination and the amount of the escrow fund shall be based upon the perceived complexity of the matter being heard, the type and number of consultants/experts that may be required and the estimated cost for such consultation(s)/expert(s). The refusal of an applicant to establish an escrow fund as directed by the Zoning Board of Appeals shall result in disapproval of the application. Consultant/expert costs shall be paid from the applicant’s escrow fund. Upon completion of the application and payment of all consultant/expert costs, any balance remaining in the applicant’s escrow fund shall be refunded to the applicant. Escrow funds shall be deposited with a banking institution under the name of the Village of Penn Yan. Such escrow funds shall be managed pursuant to standard municipal finance guidelines.

Section 5: Superseding and Repealer Provision.

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward J. Brockman, Village Attorney
Village of Penn Yan

Dated _____, 2025