

VILLAGE OF VICTORY

LAND USE

ESCROW ACCOUNT

SECTION 3

PROCEDURE HANDLING ESCROW MONEY AND ESTABLISHMENT OF ACCOUNT WITH AGREEMENT

Local Law Filing

(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.

County City Town Village
(Select one.)

of Victory, Saratoga County, New York

Local Law No. 1 of the year 2010

A local law to Regulate the Use of Land Use Escrow Accounts and the Employment of Professionals
(Insert Title)
and Consultants By the Village Planning and Zoning Boards

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Victory, Saratoga County, New York, as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

VILLAGE OF VICTORY

LOCAL LAW 1 OF 2010

**A LOCAL LAW TO REGULATE THE USE OF LAND USE ESCROW
ACCOUNTS AND THE EMPLOYMENT OF OUTSIDE PROFESSIONALS
AND CONSULTANTS BY THE VILLAGE PLANNING AND ZONING BOARDS**

BE IT ENACTED by the Board of Trustees of the Village of Victory as follows:

Section 1: Title

This Local Law shall be known as a “Local Law to Regulate the Use of Land Use Escrow Accounts and the Employment of Professionals and Consultants By the Village Planning and Zoning Boards, and may be cited as Village of Victory Local Law No. 1 of 2010 (“VOV LL 2010-1”).

Section 2: Authority.

This local law is enacted pursuant to the authority of: (a) Municipal Home Rule Law Section 10(1)(i), which authorizes a Village to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to its property, affairs or government; (b) Municipal Home Rule Law Section 10(1)(ii)(a)(3), which authorizes a Village to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to the transaction of its business; (c) Municipal Home Rule Law Section 10(1)(ii)(a)(4), which authorizes a Village to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to the incurring of its obligations; (d) Municipal Home Rule Law Section 10(1)(ii)(a)(5), which authorizes a Village to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to the presentation,

ascertainment, disposition and discharge of claims against it; (e) Municipal Home Rule Law Section 10(1)(ii)(a)(12), which authorizes a Village to adopt or amend a local law not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to the government, protection, order, conduct, safety, health and well-being of persons or property therein; (f) Municipal Home Rule Law Section 10(1)(ii)(e)(3), which authorizes a Village, under certain defined circumstances, to adopt a local law amending or superseding the provisions of the Village Law of the State of New York; and (g) Village Law Section 4-412(1), which authorizes a Village to enact local laws protecting the health, safety, morals or general welfare of the inhabitants of the Village, the protection of their property and the preservation of peace and good order.

Section 3. Regulation of Land Use Escrow Accounts.

(a) Escrow deposits paid by an applicant to the Village Planning Board or Village Zoning Board of Appeals (the "Applicant") pursuant to the Zoning Law of the Village of Victory (i.e., Village of Victory Local Law Number 1 of the year 2005), the New York State Environmental Quality Review Act, or other applicable provisions of law, shall be deposited into a separate account established by the Village of Victory in such bank or financial institution as the Village Board of Trustees shall determine. Said accounts (hereinafter referred to as "Land Use Escrow Accounts") shall be administered by the Village Treasurer and shall be specifically designated as Escrow Accounts. The monies on deposit in a Land Use Escrow Account shall not be commingled with monies of the Village, or monies on deposit in any other Land Use Escrow Account.

(b) No Land Use Escrow Account shall be established except pursuant to a written

Escrow Account Agreement which has been approved as to form and content by the Board of Trustees or the Village Attorney, and properly executed by the Applicant/Depositor.

(c) No payments from a Land Use Escrow Account shall be made unless an itemized voucher in the form prescribed by the Board of Trustees, or the Village Treasurer, shall have been presented to, and audited and allowed by, the Board of Trustees. Vouchers for professional services submitted by persons other than the Village Attorney, Village Code Enforcement Officer or Village Engineer, shall be accompanied by a statement by the Chairman of the Village land use Board before whom the related land use application is pending, that he or she approves the claim and that the services were actually rendered, or supplies or equipment actually delivered. The Board of Trustees may require by resolution that vouchers be certified or verified by oath of the claimant or his duly authorized agent.

Section 4. Retention and Use of Consultants and Professionals by Village Planning Board and Zoning Board of Appeals.

(a) Unless expressly provided to the contrary by a resolution of the Board of Trustees, the Village Attorney, Village Engineer, Village Code Enforcement Officer and other officers and employees of the Village shall be authorized and empowered, on an "as needed" basis, to consult with, or provide professional or technical services or assistance to The Village Planning Board or Village Zoning Board of Appeals said Board with respect to the review, processing or determination of any application before the Board, the enforcement of any permit or approval issued by the Board, the prosecution or defense of any litigation involving the Board, or the general business and affairs of the Board.

(b) No persons or companies shall be employed, retained, engaged, hired or utilized by

the Village Planning Board or Village Zoning Board of Appeals to provide professional or technical services of any kind or nature to said Board in connection with the review, processing or determination of any application before the Board, the enforcement of any permit or approval issued by the Board, the prosecution or defense of any litigation involving the Board, or the general business and affairs of the Board, unless: a) such persons or companies are the Village Attorney, Village Engineer, Village Code Enforcement Officer or other Officer or employee of the Village (the "Village Officers and Employees"); or b) such persons have been retained by the Village pursuant to an authorizing resolution of the Board of Trustees; or c) the retention and utilization of such persons by the Village Planning Board or Village Zoning Board of Appeals, as the case may be, as well as the scope of their engagement and the terms and conditions of their employment, have been expressly approved and consented to by resolution of the Board of Trustees.

Section 5: Supercession.

All ordinances, local laws, resolutions, rules or regulations of the Village of Victory, the Village of Victory Planning Board and the Village of Victory Zoning Board of Appeals which are inconsistent with this local law, and all provisions of the Village Law of the State of New York which are inconsistent with this local law, are hereby repealed and superceded to the extent of such inconsistency. By way of illustration of the foregoing general statement, but not of limitation thereof, this local law shall be deemed to amend, modify, supercede and take precedence over any provisions of Village of Victory Local Law number 1 of 2005, any By-laws of the Village of Victory Planning Board, any By-laws of the Village of Victory Zoning Board of Appeals, and any sections of the Village Law of the State of New York (including, without limitation, Sections 7-

718 and 7-725-a of the Village Law) which serve to confer upon the Village of Victory Planning and/or Zoning Board of Appeals, as opposed to the Village of Victory Board of Trustees, the authority and power to: a) establish and administer "Land Use Escrow Accounts", as that term is herein defined; or b) employ, engage, retain, hire or utilize consultants, experts or other persons or companies who are not "Village Officers and Employees" of the Village of Victory, as that term is herein defined, or whose retention has not been approved by the Board of Trustees.

Section 6. Severability.

If any term or provision of this Local Law, or the application thereof to any person or circumstance, shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Local Law, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Local Law shall be valid and be enforced to the fullest extent permitted by law.

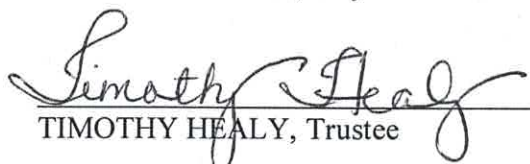
Section 7. Effective Date.

This local law shall take effect immediately upon adoption and filing with the Secretary of State, as provided in Section 27(3) of the Municipal Home Rule Law of the State of New York.

ENACTED this 1st day of June, 2010 by the Board of Trustees of the

Village of Victory, Saratoga County, New York.

JAMES SULLIVAN, Mayor



TIMOTHY HEALY, Trustee



PATRICK DEWEY, Trustee

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2010 of the (County)(City)(Town)(Village) of Victory, Saratoga County, New York was duly passed by the Board of Trustees of the Village of Victory on June 1, 2010, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Margaret E. Muel
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 6/1/10

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF SARATOGA

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.

Michael J. Catali
Signature
Attorney for the Board of Trustees, Village of Victory
Title

County
City of Victory
Town
Village

Date: 6/1/10