

PART II – GENERAL LEGISLATION

Chapter 84 – Fees

[Adopted, December 27, 2012, as Chapter 84 of the Code]

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Article I Schedule of Fees

Section 84-1 – Legislative Intent – This chapter is enacted to make more flexible the setting of fees required to be paid to the Village of Marcellus by virtue of any chapter or provision of the Code. This chapter is specifically intended to supersede any provision of the Code contrary herewith.

Section 84-2 – Certain Fees Set by Board of Trustees – The following fees shall be in such amounts as the Board of Trustees may establish from time to time by resolution at a regular meeting thereof:

- a. Building Permit and Certificate of Occupancy
- b. Certificate of Compliance/Occupancy (Only)
- c. For New Building
 - (1) For Sewer Connection
 - (2) For Water Connection
- d. Demolition Permit
- e. Special Use Permit
- f. Certificate of Non-conforming Use
- g. Sign Permit – Regular Fee
- h. Temporary Sign Permit – includes fee + refundable deposit
- i. Special Sign Permit
- j. Excavation Permit
- k. Heating Appliance/Fireplace Permit
- l. Animal Violations
- m. Peddling & Soliciting Permit
- n. Alarm Systems (unregistered)
- o. Checks, Fraudulent
- p. Inspections
 - (1) Fire
 - (2) Electrical
 - (3) Plumbing
 - (4) Rental Dwelling Registration and Inspection
- q. Copy Fees and Other Items

- r. Police, including
 - (1) Investigatory Report
 - (2) Fingerprinting
 - (3) Other
- s. Water Restoration Fee
- t. Notary Signature
- u. Zoning Fees, including
 - (1) Site Plan Application Fees
 - (2) Subdivision Application Fee
 - (3) Fees for Appeals and Application to the Zoning Board of Appeals
 - (4) Petition for Zoning Amendment Fee

Section 84-3 – Posting of Fees – When Effective – said schedule of rates and charges shall be posted in the office of the Village Clerk and shall be in effect 10 days after adoption of the resolution.

Article II Professional Fees

Section 84-4 – General Provisions

a. Referral charges – Reimbursement by applicant – Report – The Village Board, the Planning Board or the Zoning Board of Appeals, in the review of any application, may refer any such application presented to it to such engineering, planning, legal, technical or environmental consultant, or professional(s) employed by the village, as such Board shall deem reasonably necessary to enable it to review such application as required by law. Charges made by such consultants shall be in accord with charges usually made for such services in the Central New York region or pursuant to an existing contractual agreement between the village and such consultant. Charges made by the village shall be in accord with the hourly rates upon which the employee's actual salary is based and fringe benefits and reasonable overhead. All such charges shall be paid on submission of a village voucher. The applicant shall reimburse the village for the cost of such consultant services, as well as any stenographic services, upon submission of a copy of the voucher. In the event that an application is required to be reviewed by more than one board, then, in such event and to the extent practicable, both boards shall use the same consultant who shall, in such case and to the extent practicable, prepare one report providing data, information and recommendations requested. In all instances, duplications of consultants' reports or services shall be avoided wherever possible in order to minimize the cost of such consultants' reports or services to the applicant. The above fees are in addition to any and all other fees required by any other section of this chapter, any other village ordinance or regulation or the Village Code.

b. Escrow account – At the time of submission of any application, or thereafter, the reviewing board may require the establishment of an escrow account from which withdrawals shall be made to reimburse the village for the costs of professional review services. The applicant shall then provide funds to the village for deposit into such account in an amount to be determined by the reviewing board based on its evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any village voucher for such services as they are submitted to the village. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the reviewing board may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the village. After all pertinent charges have been paid, the village shall refund to the applicant any funds remaining on deposit.

c. Collection – The Clerk of the Board having jurisdiction over the application shall collect all fees required pursuant to this chapter.

d. Applicability – This chapter shall be applicable to applications pending at the time it shall become effective, unless the reviewing board shall determine that its application would be impracticable, unfair or unjust in the particular circumstances. Where this chapter shall be applicable to a pending application, it shall, in such event, require an applicant only to pay for professional fees for services rendered after it shall have become effective.

Article III – Development Cost Charge (DCC)

Section 84-5 – Legislative findings, intent and purpose

a. The Board of Trustees hereby finds and determines that in order to protect and safeguard the Village of Marcellus, its residents and their property with respect to certain land developments within the Village, all buildings and related improvements, highways, drainage facilities, utilities and parks within such developments should be designed and constructed in a competent and work-like manner and in conformity with all applicable governmental codes, rules and regulations and should be dedicated and conveyed to the Village in a legally sufficient manner. In order to assure the foregoing it is essential for the Village to have and to retain competent engineers and other professional consultants to review and approve plans and designs, make recommendations to the Board of Trustees, Planning Board and Zoning Board of Appeals, inspect the construction of highways, drainage facilities, utilities and parks to be dedicated to the Village and to recommend their acceptance by the Village and for the Village to have and retain competent attorneys to negotiate and draft appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal

documents, to review proposed deeds and easements to assure that the Village is obtaining good and proper title, to render legal opinions and to generally represent the Village with respect to any legal disputes and issues which may arise regarding' such developments. The cost of retaining such competent engineers, attorneys and other professional consultants should ultimately be paid by those who seek to profit from such developments rather than from general Village funds which are raised by assessments and/or general taxes paid by taxpayers of the Village.

b. This chapter is enacted under the authority of *Municipal Home Rule Law Sec. 10, Subdivisions 1 (ii)a(12) and d(3), and the Municipal Home Rule Law 922*. To the extent that *Village Law Sections 274-a, 276 and 277* do not authorize the Village Board, Village Planning Board and/or Village Zoning Board of Appeals to require the reimbursement to the Village of legal, engineering and other professional consulting fees, expenses and costs incurred by the Village in connection with the review and consideration of applications for subdivision approval, for the approval, amendment or extension of a district and for the review and consideration of applications for variances, controlled site uses and specific permit uses under the Code of the Village of Marcellus, Chapter 250, Zoning, it is the expressed intent of the Village Board to change and supersede such statutes. More particularly, to the extent that such statutes authorize the deferral or withholding of such approvals in the event that such fees, expenses and costs are not paid to the Village, it is the expressed intent of the Village Board to change and supersede *Village Law 99274-a, 276 and 277* to empower the Village to require such payment as a condition to such approvals.

Section 84-6 – Definitions – As used in this chapter, the following terms shall have the meanings indicated:

a. Applicant – Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Village or its Planning Board, Zoning Board of Appeals or Village Board to approve a development and/or to grant an application for a variance, a controlled site use or a specific permit use.

b. Code – The Code of the Village of Marcellus.

c. Developer – Any person, firm, partnership, association, corporation, company or organization of any kind who or which

(1) Constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development with the intent to convey or dedicate the same to the Village.

(2) Requests the Village to create a district.

(3) Requests the Village to approve an application for a variance, a controlled site use or a specific permit use.

d. Development – Includes, but is not limited to, a subdivision or a district.

e. District – Any special district under the Village Law.

f. Drainage Facility – All surface water drainage facilities, including but not limited to detention and retention basins, storm sewers and their appurtenances, drainage swales and

ditches and any easements through or over which such facilities may be constructed or installed within or in conjunction with a development.

g. Highway – Includes, but is not limited to, a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass or underpass and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks within or in conjunction with a development.

h. Park – An area of land located within a development which is open to the public and devoted to active or passive recreation.

i. Planning Board – The Planning Board of the Village of Marcellus.

j. Subdivision – A subdivision of land as defined in *Section 223-2 of Chapter 223* of the Code and the land subdivision regulations of the Village.

l. Treasurer – The Treasurer of the Village of Marcellus

m. Utilities – All water, sanitary sewer, gas, electric, telephone and cable television facilities and any easements through or over which, said facilities may be constructed or installed within or in conjunction with a development.

n. Village – The Village of Marcellus.

o. Village Board – The Board of Trustees of the Village of Marcellus.

p. Zoning Board of Appeals – The Zoning Board of Appeals of the Village of Marcellus.

Section 84-7 – Reimbursement of fees and expenses

a. Subdivisions.

(1) An applicant for approval of a subdivision in the Village shall reimburse the Village for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Village in connection with the review and consideration of such subdivision.

(2) A developer who constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved subdivision in the Village shall reimburse the Village for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Village in connection with the inspection and acceptance by the Village of such highways, drainage facilities, utilities and parks and the dedication of the same to the Village.

b. Districts.

(1) An applicant for approval, amendment or extension of a district in the Village, outside the Village of Marcellus, shall reimburse the Village for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Village in connection with the review and consideration of said application.

(2) A developer who constructs or proposes to construct one or more buildings, highways, drainage facilities, utilities or parks within or in conjunction with a district in the Village shall reimburse the Village for all reasonable and necessary legal, engineering and other professional consulting fees and expenses incurred by the Village in connection with the granting of any building permit and in connection with the inspection and acceptance by the

Village of such highways, drainage facilities, utilities and parks and the dedication of the same to the Village.

c. Variances, controlled site uses and specific permit uses. An applicant or developer making application for the issuance of a permit for a controlled site use or a specific permit use or seeking approval of an application for a variance shall reimburse the Village for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Village in connection with the review and consideration of such application.

Section 84-8 – Deposit of funds – Payment of fees

a. Simultaneously with the filing of an application for approval of a development and prior to the commencement of any construction of buildings, highways, drainage facilities, utilities or parks therein or prior to the filing of an application for approval of a variance, a controlled site use or a specific permit use, the applicant or developer, as the case may be, shall deposit with the Village Treasurer a sum of money, as determined in accordance with the schedule of deposits fixed by the Village Board pursuant to Section 84-9 of this chapter, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Village for legal, engineering and other professional consulting services as described in Section 84-7 of this chapter.

b. Upon receipt of such sums, the Treasurer shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Village and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the applicant or developer and the application and development for which such sums were deposited.

c. Upon receipt and approval by the Treasurer of itemized vouchers from an attorney, engineer and/or other professional consultant for services rendered on behalf of the Village pertaining to the development or to the application for a variance, controlled site use or a specific permit use, the Treasurer shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. The Treasurer shall furnish copies of such vouchers to the applicant or developer at the same time such vouchers are submitted to the Village.

d. The Treasurer shall review and audit all such vouchers and shall approve payment of only such legal, engineering and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Village in connection with the review, consideration and approval of developments, the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments, and the review, consideration and approval of applications for variances, controlled site uses and specific permit uses. For purposes of the foregoing, a fee, expense or cost or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by attorneys, engineers or other professional consultants to the Village for services performed in connection with the approval or construction of a similar development or the consideration, review and approval of a similar variance, controlled site use or specific permit use, and in this regard the Treasurer may take into consideration the size, type and number of buildings to be constructed

the amount of time to complete the development, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations the Treasurer may deem relevant. For purposes of the foregoing, a fee, expense or cost, or part thereof is necessarily incurred if it was charged by the attorney, engineer or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Village, protect public or private property from damage from uncontrolled surface water runoff and other factors, to assure the proper and timely construction of highways, drainage facilities, utilities and parks and otherwise to protect the legal interests of the Village, including receipt by the Village of good and proper title to dedicated highways and other facilities and the avoidance of claims and liability and such other interests as the Treasurer may deem relevant or to assure the proper and timely review and consideration of an application for a variance, controlled site use or a specific permit use.

e. If at any time during or after the processing of such application or the construction, inspection or acceptance of buildings, highways, drainage facilities, utilities or parks or during or after the processing of an application for a variance, controlled site use or specific permit use there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Treasurer that such monies will be insufficient to meet vouchers yet to be submitted, the Treasurer shall cause the applicant or developer to deposit additional sums as the Treasurer deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

f. In the event that the applicant or developer fails to deposit such funds or such additional funds, the Treasurer shall notify, as applicable, the Chair of the Planning Board, the Chair of the Zoning Appeals Board, the Village Board and/or the Mayor of such failure, and any review, approval, building permit or certificates of occupancy shall be withheld by the appropriate board, officer or employee of the Village until such monies are deposited.

g. After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific development, or any requested variance, controlled site use or specific permit use, and, after payment of all approved vouchers submitted regarding such development or application, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

Section 84-9 – Deposit amounts – The amount of the initial deposit for the various developments and or applications covered by this chapter shall be as set forth in a schedule of deposits established from time to time by resolution of the Village Board. The schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution of the Village Board.

Section 84-10 – Application fees – The deposits required by this chapter shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Village, the County of Onondaga, the State of New York or of any other body having

jurisdiction with respect to a development, drainage facility, highway, utility or park or to an application for a variance, controlled site use or a specific permit use and shall not be used to defray either the Village's general expenses for legal, engineering or professional consulting fees for the several boards of the Village or its general administration expenses.

Section 84-11 – Severability – If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder thereof but shall be limited in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the proceeding in which such judgment is rendered.

Section 84-12 – Reserved –