

LOCAL LAW NO. 4 OF 2020

**VILLAGE BOARD OF TRUSTEES
VILLAGE OF PELHAM**

**LOCAL LAW TO CREATE CHAPTER 77A OF THE
CODE OF THE VILLAGE OF PELHAM**

A LOCAL LAW to create Chapter 77A of the Code of the Village of Pelham concerning the creation of the Village of Pelham Council on the Arts.

Section 1. Chapter 77A of the Code of the Village of Pelham entitled “Village of Pelham Council on the Arts” is hereby created as follows:

§ 77A-1 Purpose and intent.

- A. Public art, in both physical and digital form, has enabled people in all societies to understand better their communities and individual lives.
- B. Established forums for public expression serve as drivers of economic and social sustainability.
- C. Democracy demands wisdom, and the Village can be served and strengthened by promoting excellence in the humanities and conveying the lessons of its history to all residents.
- D. The Village therefore wishes to expand the public experience with visual art and the humanities by creating a public artwork program to be administered by the Village of Pelham Council on the Arts that: (i) encourages the direct commission of artwork for municipally supported projects; (ii) engages the individual and collective imagination of artists who create artwork for public consumption; (iii) supports research and original scholarship; (iv) preserves and provides access to cultural and educational resources; and (v) drives interest in the Village’s downtown.
- E. The Village intends that:
 - 1. The public artwork program shall encompass the broadest possible range and variety of expression, media, and materials;

2. The selections of artists and artwork shall reflect a standard of excellence and the cultural and ethnic diversity of the Village; and
3. The study and application of the humanities shall reflect our diverse heritage, traditions, and history.

§ 77A-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ARTS COUNCIL shall mean the Village of Pelham Council on the Arts.

§ 77A-3 Creation; composition; membership; terms.

- A. The Arts Council is hereby created and established, and shall consist of no less than five (5) members and no more than seven (7) members.
- B. The members of the Arts Council shall be appointed by the Mayor with the approval of the Village Board.
- C. At least one-half of all members of the Arts Council sitting at any given time shall reside in the Village.
- D. Each member of the Arts Council shall serve without compensation for one or more terms of three (3) years, except that three (3) of the original members of the Arts Council shall serve for terms of two (2) years.
- E. To qualify to serve as a member of the Arts Council, a person shall have experience and interest in the arts of architecture, landscape architecture, sculpture, painting, performance arts, filmmaking, education, literature, history, or other similar arts and works of art.
- F. The members of the Arts Council shall annually select from its membership a chairperson, who shall preside over its meetings and a Vice-Chair who shall serve in the absence of the chairperson. All meetings of the Arts Council shall be held at the call of the chairperson and at such other times as the Arts Council may determine.
- G. A majority of the members of the Arts Council shall constitute a quorum and a majority vote of those present shall be required for any action by the Arts Council.

§ 77A-4 Duties and responsibilities.

A. The Arts Council shall:

1. Promulgate guidelines and procedures governing:
 - a. Determinations concerning whether and to what extent artwork is appropriate for a particular project;
 - b. The selection of artists and artwork for a particular project;
 - c. The submission of artwork proposals to the Arts Council for approval;
 - d. The creation and sustainment of a climate encouraging freedom of thought, imagination, and inquiry;
 - e. The allocation of eligible funds for:
 1. the creation of new artwork;
 2. the maintenance of existing artwork;
 3. the production of lectures, discussions, exhibitions and other programs; and
 - f. The performance of the Arts Council's other duties and responsibilities under this chapter.
2. Review, examine and consider all artwork to be acquired by the Village, whether by purchase, gift, or otherwise.
3. Require to be submitted to the Arts Council, whenever it deems it necessary, a complete model or design of any artwork to be acquired by the Village.
4. Review, examine, consider and direct the removal, relocation or alteration of any existing artwork in the possession of the Village.

5. When appropriate, commission the creation of artwork for acquisition by the Village for specific purposes.
 6. Advocate for public art and the inclusion of public artwork and artists in the design and development of public spaces and facilities.
 7. Review, consider and take appropriate action concerning the conservation of artwork that is subject to Arts Council approval.
 8. Whenever feasible, consult with the creating artist concerning the installation, maintenance, alteration, refinishing, and change in location of artwork approved by the Arts Council.
 9. Maintain a detailed record of all artwork located in public places in the Village, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible.
- B. The guidelines and procedures to be promulgated by the Arts Council pursuant to Subsection A of this section shall be filed with the Village Clerk within ninety (90) days of the effective date of this chapter and shall not become effective until reviewed and approved by the Village Board. Any additions, deletions, or changes to the approved guidelines and procedures shall be filed with the Village Clerk and shall not become effective until reviewed and approved by the Village Board.
- C. Prior approval of the Arts Council shall be required for:
1. The acquisition of all artwork by the Village, whether by purchase, loan, gift, or otherwise;
 2. The design and location of all artwork, regardless of ownership, proposed for temporary or placement in, on, or over property owned or leased by the Village, including multimedia art utilizing resources owned or operated by the Village;
 3. The design and location of all artwork proposed for placement in, on, or over the public right-of-way;
 4. Any other approval or permit that may be required by the Village prior to such placement;

5. Any change in the design or placement of any artwork approved by the Arts Council pursuant to this chapter;
 6. Any alteration, removal or change in the location or placement of any artwork that is subject to approval for the Arts Council pursuant to this chapter; and
 7. Any extension of time relating to a temporary installation of artwork approved by the Arts Council pursuant to this chapter.
- D. Notwithstanding the provisions of Subsection C of this subsection, the design and temporary placement of artwork in, on or over the public right-of-way or on property owned or leased by the Village that is a component of a community event or festival not exceeding fourteen (14) days in duration shall not require Arts Council approval if the artwork is completely removed at the conclusion of the event or festival.

§ 77A-5 Reservation of rights by the Village.

- A. Notwithstanding any other provision of this chapter, the Village shall maintain full authority over Village property and shall have the right to the relocate or remove any artwork approved by the Arts Council on the ground that the artwork poses a risk to public health or safety, is located on Village property in contravention of the provisions of this chapter or the Code, is damaged beyond repair or on any other grounds consistent with the Village's authority under governing law.
- B. No artwork financed or installed utilizing, in whole or in part, Village funds or in whole or in part with the proceeds of a grant procured by the Village shall be permanently installed on privately owned property absent a written agreement between the Village and the owner, acceptable to the Village Board: (i) specifying the proprietary interests in the artwork; (ii) binding the owner to the provisions of this chapter; (iii) providing that the owner shall ensure the installation of the work of art in a manner that will protect the artwork and the health and safety of the public; (iv) providing that the artwork will be maintained in good condition; (v) providing for appropriate insurance and indemnification; and (vi) containing such additional provisions as are deemed necessary or desirable by the Village Board.

§ 77A-6 Removal; Vacancies.

- A. The Mayor and the Village Board may, by majority vote, remove any member of the Arts Council, with or without cause.
- B. Vacancies shall be filled for the unexpired term of any member whose place has become vacant, whether by removal, resignation or otherwise by the Mayor with the approval of the Village Board.
- C. Any member of the Arts Council that will be absent for a regularly scheduled meeting shall advise the chairperson in advance and shall, at the discretion of the chairperson, be recorded as "excused" for the meeting. In the event that any member is absent for three regularly scheduled meetings in the same calendar year, or is absent without excuse for two consecutive meetings, the chairperson shall notify the Mayor and the member shall be deemed to have resigned from the Arts Council, unless the Village Board concludes in its discretion that good cause has been shown for the absences.

Section 3. Numbering for Codification.

It is the intention of the Village of Pelham and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Pelham; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date.

This Local Law shall take effect immediately filing with the Office of the Secretary of State.