

(Please use this form for filing your local law with the Secretary of State)

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

County  
City of Smithville  
Town  
Village

Local Law No. 1 in the year 1989.

**A local law Town Of Smithville Sanitary Regulations**

(Insert title)

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

County  
City of Smithville, New York as follows:  
Town  
Village

**TOWN OF SMITHVILLE SANITARY REGULATIONS**

**ARTICLE 1**

**INTRODUCTORY PROVISIONS**

**SECTION 1.010 SHORT TITLE**

This local law shall be known as the Town of Smithville Sanitary Regulations. The Town of Smithville is hereinafter referred to as the "town".

**SECTION 1.020 APPLICABILITY**

This local law shall govern the treatment of sewage and the design of all sewage treatment systems within the town except that this local law shall not govern the design and installation of, or the treatment of sewage by means of a community or public sewerage system,

**SECTION 1.030 AUTHORITY**

Enactment of this local law is pursuant to Article 16 of the Town Law, Article 3 of the Public Health Law, and Article 27 of the Executive Law of the State of New York.

**SECTION 1.040 PURPOSE AND OBJECTIVES**

The purpose of this local law is to promote the health, safety, and general welfare of the community by insuring through the location, construction, and use of properly designed facilities that sewage and other wastes are disposed of in a manner that will not create a health hazard , adversely affect the environment, or impair the enjoyment or use of property.

ARTICLE II  
GENERAL PROVISIONS

SECTION 2.010 PROHIBITED ACTS

Except as otherwise provided in this law:

- A. It shall be unlawful for any person to construct, alter, repair, enlarge, or extend any facility or part of such facility intended or used for the discharge of sewage.
- B. It shall be unlawful for any person to cause to be discharged within the town any sewage except by systems designed, installed, and approved in accordance with the requirements of this law, except that holding tank sewage wastes shall be disposed of in a location and by a method designated by the Town Board provided that such location has received all required governmental approvals.
- C. It shall be unlawful for any person to use or maintain any individual sewage treatment system that is unsafe, is a source of pollution to any of the surface waters of the town and state, permits the seepage of sewage to the ground surface, or interferes with the enjoyment or use of the property.
- D. It shall be unlawful for any person to vacate, other than on a seasonal basis, the property upon which a septic tank or seepage pit is located, unless at the time of such vacating the septic tank is filled with clean, granular soil or inert, free-flowing, dense material.

It shall be unlawful for any person to construct, alter, repair, enlarge, extend or use an individual sewage treatment system if a community sewerage system is now, or becomes, reasonably accessible.

SECTION 2.020 DEFINITIONS

- 1. **“Application Rate”** – the rate at which septic tank effluent is applied to a subsurface tile system or seepage pit, for design purposes, expressed in gallons per day per square foot.
- 2. **“Baffle”** – a flow deflecting device used in septic tanks to check or inhibit the velocity of a stream of flow or the discharge of floating and suspended solids. See Sanitary Tee definition.
- 3. **“Building”** – means a structure wholly or partially enclosed with exterior or party walls, and a roof, affording shelter to person, animals, or property.
- 4. **“Building Drain”** – means that part of the lowest piping of a drainage system which receives the discharge of soil, wastes, and other drainage pipes inside the walls of the building and conveys such discharges to the building sewer, The building drain extends to three (3) feet outside the building wall.
- 5. **“Building Sewer”** – that part of the drainage system which extends from the end of the building drain and conveys its discharges to an individual sewage treatment system, public sewer, private sewer, or other approved point of treatment.
- 6. **Chemical Toilet** – lightweight, portable unit in which chemicals are used for odor control, emulsification, and disinfection of the contents in the holding tank.
- 7. **“Cleanout”** – an opening providing access to sewage treatment devices (hose sewer, septic tank, distribution box) which allows for the cleaning or purging of materials and obstructions.
- 8. **“Combined Sewer”** – means a sewer receiving both surface runoff and sewage.
- 9. **“Community Water Supply System”** – means a public water system which serves at least five service connections used by year-round residences or regularly serves at least 25 year-round residents.
- 10. **“Distribution Box or Device”** – a device used to uniformly distribute sewage to the distribution lines.
- 11. **“Emergency Repairs”** – are repairs designed to prevent or abate an imminent threat to the public health, safety, or welfare caused or about to be caused by an individual sewage treatment system.
- 12. **“Emergency Grade”** – means the natural topography of land prior to construction activity.

13. **“Fill System”** – means any sewage treatment system involving more than a two foot depth of constructed earth fill above natural existing ground level, and designed according to the provisions of Article III of this ordinance.
14. **“Final Grade”** – the elevation that ground will have at the conclusion of cutting, filling, or other site work.
15. **“Garbage”** – means organic solid wastes from domestic or commercial preparation, cooking, or dispensing of food, of from the handling, storage, or sale of produce.
16. **“Grade”** – the slope of a line of pipe, trench bottom, or ground surface in reference to a horizontal surface.
17. **“Gravel”** – means a mixture of mineral soil particles whose individual diameters range from ¼ inch to 3 inches.
18. **“Groundwater”** – soil moisture occupying a zone of saturated soil which has a thickness of at least 6 inches for at least a two-week period during the average water year.
19. **“Impervious Material”** – means a material with a percolation rate of slower than sixty (60) minutes per inch.
20. **“Individual Sewage Treatment System”** – means a complete system of piping, tanks, and other facilities for the on-site collection, transport and treatment of sewage, which is not connected to a community or public sewerage system,
21. **“Industrial Wastes”** – means any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business, or from development or recovery of any natural resource.
22. **“In Existence”** – means with respect to individual sewage treatment systems that such structure has been substantially commenced or completed.
23. **“Invert”** – means the bottom-most point of an open conduit or the bottom-most point of a closed conduit.
24. **“Leaching Facility”** – means any structure that is designed to distribute effluent from a septic tank into the soil. See Seepage Pit or Tile Field definitions.
25. **“Local Board of Health”** – means the Town Board acting pursuant to its authority found in Article 3 of the Public Health Law.
26. **“Major Altercation”** – See Major Repair definition.
27. **“Major Repair”** – means any replacement or reconstruction affecting the septic tank or at least ½ of the leaching facility of an individual sewage treatment system.
28. **“Mean High Water”** – means the average annual high water level.
29. **“Minor Altercation”** – See Minor Repair definition.
30. **“Minor Repair”** – is any remedial measure not defined as a major repair, major altercation, or extension.
31. **“Percolation”** – the movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.
32. **“Percolation Test”** – a standard procedure for testing soil permeability to determine the application rate for a septic tank.
33. **“Permanent Building”** – any structure that is constructed or attached to a permanent foundation at one location for 120 consecutive days.
34. **“Person”** – any individual or individuals, firm, partnership, association, corporation, company, or organization of any kind.
35. **“Privy”** – a building fixed to a vault or a pit, equipped with seating to allow for excretion of human waste.
36. **“Preexisting Individual Sewage Treatment System”** – means any individual sewage treatment system that was lawfully in existence prior to effective date of this local law.
37. **“Sanitary Inspector”** – means the person appointed by the Town Board whose duty and authority is to administer and enforce the provisions of this local law.

38. **“Sanitary Tee”** – pipe fitting used in septic tanks to reduce flow velocities as to enhance the settling of solids in the tank and prevent carry-over solids. See Baffle definition.
39. **“Seepage Pit”** – a covered, underground pit with a permeable lining that permits the infiltration of septic tank effluent into the surrounding soil.
40. **“Septic Tank”** – large, watertight chambers which promote the growth of anaerobic bacteria for the biological decomposition of solids associated with domestic sewage.
41. **“Sewage”** – the combination of human and household waste with water which is discharged to the home plumbing system; the waste from a flush toilet, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture or equipment or machine.
42. **“Subsurface Absorption System”** – means seepage pits or subsurface tile systems.
43. **“Subsurface Tile System”** – a network of open joint or perforated piping laid in gravel trenches for the purpose of distributing the effluent from an individual treatment service for absorption into the soil.
44. **“Surface Water Body”** – any lake, pond, river, stream, intermittent stream or wetland.
45. **“Toilet Wastes”** – means any human excretion and toilet flushing fluid.
46. **“Treatment Field”** – means that area to which sewage is distributed for infiltration into the soil.
47. **“Treatment System Construction Permit”** – means the permit required before construction of an on-site sewage treatment system.
48. **“Treatment System Use Certificate”** – means the certificate required before any portions of an on-site sewage treatment system are back-filled or covered.

### ARTICLE III STANDARDS

#### (INDIVIDUAL SEWAGE TREATMENT SYSTEMS)

##### SECTION 3.010 COMPLIANCE

Individual sewage treatment systems shall comply with the applicable specifications and standards set forth in the most recent edition and all amendments thereto of Waste Treatment Handbook Individual Household Systems, New York State Department of Health (10NYCRR Appendix 97-A), and Standards For Waste Treatment Works – Institutional and Commercial Sewerage Facilities, New York State Department of Environmental Conservation. Language such as “should” in these publications shall be considered mandatory (“shall”) for the purposes of this law. Systems shall also comply with other standards of purposes of this article. With reference to the 100-foot minimum setback distance required between water bodies and a leaching facility, in no case shall any treatment field, seepage pit, or any other leaching facility be located closer than 100 feet from the mean high water mark of any lake, pond, permanent or intermittent stream. Alternative systems, (e.g. evaporation – absorption system, etc.) excepting filling systems (which are permissible under Section 3.040 under this local law), may be permitted by application to the State Department of Health or, if applicable, the Department of Environmental Conservation with approval by the Town Board. The Town Clerk shall maintain all the necessary records and references for the Department of Health and the Department of Environmental Conservation laws regulating Sanitary Waste Treatment.

### SECTION 3.020 GENERAL STANDARDS

- A. Only sewage may be discharged into the individual sewage treatment system. Surface and subsurface water, including roof, cellar, foundation and storm drainage shall be excluded from such systems and shall be disposed of so they will in no way affect the system.
- B. No component of a leaching facility shall be located under driveways, roads, parking areas, or areas subject to heavy loading.
- C. No individual sewage treatment system except a sanitary privy or system employing a holding tank as a sole receptacle for sewage may be placed on a lot not served by a community water supply, if such a lot is less than 30,000 square feet in size with a minimum dimension of 150 feet frontage per one family unit.

### SECTION 3.030 FILL SYSTEMS

- A. In those cases where tests for high groundwater determination and soil percolation indicate that the quality and depth of natural soil is inadequate for the installation of a subsurface tile or seepage pit system, a fill system may be utilized, provided the specifications of Paragraph B are being met. Final approval of fill systems shall not be granted until the fill is in place and the system evaluated according to the administrative provisions of this local law.
- B. The design and installation of a fill system shall comply with the following specifications:
  - 1. There must be at least two feet of naturally occurring soil over a layer of impervious material.
  - 2. The maximum allowable existing natural ground surface slope for built-up systems shall be ten percent.
  - 3. When placing fill on top of existing grade, no organic debris, including leaves, roots, and other plant forms, shall be removed prior to the placement of the fill.
  - 4. The soil used for fill shall be well graded loamy sand, or well graded loamy sandy gravels; and, should contain a maximum of twelve percent slits or clays containing no organic debris and no solid object larger than three inches in diameter. The fill shall be allowed to stabilize for at least 45 days before installation of subsurface tile system.
  - 5. Sufficient fill must be installed to ensure a minimum of two feet between any trench and maximum high seasonal groundwater.
  - 6. Only subsurface tile systems shall be used as the leaching facility in fill systems.
  - 7. A channel or diversion system shall be placed about the fill system in the upslope direction and of sufficient length to divert surface and sheet water runoff around the fill system.
  - 8. The top of the fill over the leaching facility shall be crowned or sloped to allow natural surface runoff, and seeded.
  - 9. Side slopes of fill shall be graded to a slope not steeper than one foot vertical to three feet horizontal.
  - 10. The limits of the fill shall extend at least 20 feet beyond the area necessary for the subsurface tile system in all directions therefrom.

ARTICLE IV  
PREEXISTING SYSTEMS

**SECTION 4.010 CONTINUATION OF PREEXISTING SYSTEMS**

Subject to the provisions of this local law, the use or maintenance of a properly functioning preexisting individual sewage treatment system may be continued, but it shall be unlawful to alter, enlarge, repair, or extend such systems except in conformity with the provisions herein. This article shall not be construed to permit any unsafe use or structure, or permit such structures or their use when such structure or use constitutes a threat to public health, safety, welfare, or environmental quality; permits the seepage of sewage waters to ground waters; permits the discharge of sewage to a surface water body; or interferes with the enjoyment or use of property.

**SECTION 4.020 REPAIR, ALTERCATION, ENLARGEMENT, OR EXTENSION OF A SYSTEM**

- A. It shall be unlawful to repair, alter, enlarge, or extend a preexisting individual sewage treatment system except that:
  - 1. Minor repairs and minor altercations may be undertaken without a permit.
  - 2. Major repairs, extensions, or major altercations may be undertaken pursuant to a treatment system construction permit.
  
- B. It shall be unlawful to use any system that has been extended or undergone major repairs or major altercations unless a treatment system use permit is issued pursuant to Article V of this local law.

ARTICLE V  
ADMINISTRATIVE PROVISIONS

**SECTION 5.010 SANITARY INSPECTOR**

The Sanitary inspector shall have the duty to administer and enforce the provisions of this local law. The Sanitary Inspector shall be appointed and may be removed by the Town Board. Persons adversely affected by an action, commission, decision, or ruling by the Sanitary Inspector may appeal to the Town Board, which shall render a decision regarding the appeal only after holding a hearing on the matter pursuant to the terms of this article.

**SECTION 5.020 RECORD KEEPING**

The original or certified copy of all findings, decisions, permits, certificates, or other rulings of the Sanitary Inspector or Town Board under this law, shall be retained in the files of the Town Clerk as a permanent public record.

**SECTION 5.030 ISSUANCE OF TREATMENT SYSTEM CONSTRUCTION PERMITS AND TREATMENT SYSTEM USE CERTIFICATES**

**A. TREATMENT SYSTEM CONSTRUCTION PERMITS:**

1. It shall be unlawful for any person to construct, alter, repair, enlarge, or extend an individual sewage treatment system within the Town unless a treatment system construction permit has been issued therefore, except that minor repairs and alterations or emergency repairs may be made without a permit.
2. Applications for treatment system construction permits may be made only by the owner or lessee of the lot for which the system is proposed or his or her duly authorized agent or assignee. Applications shall be made in writing, signed by the applicant in such form as the Town Board shall determine. A fee of thirty-five dollars (\$35.00) shall accompany the application for a treatment system construction permit. The said fee shall be the property of the Town. Applications shall be submitted to the Sanitary Inspector and include such information as the Town Board and Sanitary Inspector shall require, including:
  - a. The name, mailing address, and telephone number(s) of the applicant;
  - b. The owner of record (name as on deed);
  - c. Specific location of the property on which the construction, alteration, repair, or extension is proposed, including the tax map number for said property.
  - d. A plan for the proposed treatment system with substantiating data indicating that the minimum standards set forth in this law would be complied with.
  - e. A sketch of the property showing the location of the proposed treatment system construction, alteration, repair, or extension and including delineation of the property lines and sources of water supply for the property and adjoining properties.
  - f. Evidence to demonstrate to the satisfaction of the Sanitary Inspector that there is no public sewer available into which the sewage can be discharged from plumbing facilities on the proposed construction site, or that it is impracticable to discharge sewage from on-site plumbing facilities into a community sewerage system.
  - g. A percolation test is required for the site of a proposed leaching facility. The percolation rate shall be determined by the methods described in the State's Waste Treatment Handbook. The test shall be performed by the Sanitary Inspector or by another individual designated by the Town Board.
  - h. Site data which might affect, or be affected by, the proposed system include, but are not limited to specifications regarding soil type, topography, depth to seasonal high groundwater, depth to impervious material, depth to bedrock and distance to surface bodies of water. The determination of depth to seasonal high groundwater should preferably be made in the months of March, April, May or June. If such determination is made at any other time, seasonal high groundwater shall be evaluated and certified by a qualified person approved by the Town Board. All determinations shall be accompanied by a statement for the testing methods used, as well as the basis for the determinations. The Sanitary Inspector shall determine whether or not an application is complete.
3. The Sanitary Inspector shall have the authority to require certification or retesting to verify information submitted as part of the application.

4. The Sanitary Inspector may conduct such investigations, examinations, tests, and site evaluations as he deems necessary to verify information contained in an application for a treatment system construction permit, and the applicant or owner of land on which the system is proposed shall grant the Sanitary Inspector or his agents permission to enter on his land for these purposes.
5. The Sanitary Inspector shall not issue a treatment system construction permit unless:
  - a. All pertinent site data has been submitted, verified, and certified as required by this local law; all permit fees have been paid, and the Sanitary Inspector has determined that the alteration, repair, or construction as proposed in the application complies with all specifications contained in this local law, or
  - b. The Sanitary inspector is specifically ordered to issue a treatment system construction permit by the Town Board pursuant to Section 5.070 of this local law or all permit fees have been paid.
6. The Sanitary Inspector may disapprove an application for a treatment system construction permit if he determines:
  - a. That the individual sewage treatment system, as proposed, will not conform to the requirements or specifications of this local law or an order of the Town Board.
  - b. That the applicant has failed to supply all data necessary to make a determination as to whether such individual sewage treatment system conforms to the requirements or specifications of this local law and has failed to supply such information for sixty (60) days after a written request for such additional information has been mailed.
  - c. The applicant has failed to pay all necessary fees and has failed to make cash payment for sixty (60) days after notice of such non-payment has been mailed.
7. The Sanitary Inspector may, by written notice, order all further work stopped on any individual sewage treatment system which is being constructed or installed in violation of this local law.

#### B. TREATMENT SYSTEM OPERATING CERTIFICATES:

1. It shall be unlawful for any unauthorized person to cover with soil, or other material, or utilize, any individual sewage treatment system unless a treatment system operating certificate has been issued therefore.
2. It shall be the duty of the holder of the treatment system construction permit to notify the Sanitary Inspector when the installation of the treatment system is ready for inspection. The inspection shall be made as soon thereafter as practicable by the Sanitary Inspector. The Sanitary Inspector may also make inspections during construction to insure that the system is being installed in accordance with the terms of the treatment system construction permit. Any part of any installation which has been covered prior to final approval shall be uncovered upon order of the Sanitary Inspector.
3. A treatment system operating certificate shall not be granted until the Sanitary Inspector has determined that the individual sewage treatment system has been installed in compliance with the terms of the treatment system construction permit. The Sanitary Inspector may make such a determination only after he has made an on-site investigation of the system, or received a certification from the



individual designing and installing the system that the system conforms to the specifications set forth in the application and this local law; or by an order of the Town Board pursuant to this article. The Sanitary Inspector may withhold a determination until after an on-site investigation has been completed notwithstanding that the system has been certified as properly installed and designed.

**SECTION 5.040 FORM OF PETITIONS, APPLICATIONS, AND APPEALS**

Unless otherwise stated, all petitions, applications and appeals provided in this local law shall be made on forms prescribed by the Town Board. Completed forms shall be accompanied by whatever further information, plans, or specifications as may be required by such forms.

**SECTION 5.041 VARIANCE**

If it is impossible to comply with the requirements of this local law as set forth in Articles III and IV, due to the size of existing lot, location of existing buildings or soil characteristics, on written request from the owner a variance may be granted by the Town Board after review and comment by the New York State Department of Health or the Chenango County Public Health Director, and the Sanitary Inspector, and after contiguous property owners are notified of the variance request and given the opportunity to submit comments relative to the proposal.

**SECTION 5.042 AUTHORIZATION TO GRANT OR DENY ALTERNATIVE SYSTEM**

Any proposal for an alternative to the requirements of this local law shall be reviewed and commented upon by the New York State Department of Health or the Chenango County Public Health Director and authorized by the Town Board in accordance with standards and procedures set forth in this article. In approving such alternatives, the Town Board shall impose reasonable conditions, to protect the best interest of the surrounding property and to preserve the health, safety, and general welfare of the Town.

**SECTION 5.050 APPLICATION FEES**

Fees shall be paid upon the submission of applications provided for by the terms of this local law.

**SECTION 5.060 APPEALS FROM ACTIONS OF SANITARY INSPECTOR, NOTICE OF PUBLIC HEARING**

- A. Appeals of any actions, omissions, decisions or rulings of the Sanitary Inspector must be instituted within thirty (30) days of the act, omission, decision, or ruling from which relief is sought.
- B. Within fifteen (15) days of receipt of a completed application for an appeal of an action, omission, decision, or ruling of the Sanitary Inspector the Town Board shall give notice of a public hearing to be held on the application.
- C. Each notice of hearing upon an application for an appeal to the Town Board shall be published once in the official newspaper of the town at least ten (10) days prior to the date of the hearing.

In addition, at least fifteen (15) days prior to the date of the hearing, notices shall be mailed to the applicant, each owner of record or the land involved in the application

**SECTION 5.070 HEARINGS AND DECISIONS ON APPEALS**

- A. Public hearings on appeals of actions of the Sanitary Inspector shall be held within thirty (30) days after the notice is mailed, as provided for in Section 5.060 C above.

Any hearing may be recessed by the Town Board in order to obtain additional information or to serve further notice upon other property owners, or to persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. No further notice by publication will be necessary.

All persons entitled to notice under Section 5.060C above, as well as any person showing he may be directly affected by a proposal, shall be full parties in interest, with standing to participate in and all proceedings under this article. Within thirty (30) days of the final adjournment of a public hearing, the Town Board shall affirm, modify, or deny the action, decision, omission, or ruling of the Sanitary Inspector or correct any omission by him, or approve with conditions or disapprove the application.

The decision of the Town Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Town Board. The Town Board's discretion in considering an appeal under this article shall not extend to granting variances\* from this local law but shall rather be limited to reviewing the Sanitary Inspector's interpretation or application of the terms hereof.

\*Variances from the substantive requirements (e.g. septic tank sizes, setback distances, etc.) remain under the jurisdiction of the New York State Department of Health (10NYCRR Part 75) – or the Chenango County Public Health Director.

- B. As part of any decision, the Town Board shall direct the Sanitary Inspector to issue any appropriate permit in conformity with its ruling and shall state a time by which the permit shall be issued, in conformity with this local law.

**SECTION 5.080 APPEAL FROM ACTION OF THE TOWN BOARD**

An action, omission, decision, or ruling of the Town Board pursuant to this local law may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the New York Civil Practice Law and Rules, but application for such review must be made not later than sixty days from the effective date of the decision or ruling or the date when the action or omission occurred.

**SECTION 5.090 SITE INSPECTIONS**

- A. In filing an application for a treatment system construction permit, an applicant shall be deemed to have consented to the Sanitary Inspector and/or other person designated by the Town Board conducting examinations, tests, and other inspections of the treatment system site. Entrance upon the applicant's property shall be made only at reasonable times and with advance notice to the applicant where possible.
- B. The Sanitary Inspector or his designee may inspect any individual sewage treatment system built after this local law takes effect to insure that it is being maintained in proper working order. It shall be unlawful for the owner or occupant of the property to such official or his designee access to the property at reasonable times for the purpose of making such inspections. Where practical, inspections shall be made only after reasonable notice to the owner or occupant. Where the Sanitary Inspector determines that a system is not being maintained in compliance with this local law or any permit issued hereunder, he may order that use of the system cease, and/or that the defects be corrected, and/or misuse abated within a reasonable time. If the prescribed action is not taken within the time fixed by the Sanitary Inspector he may revoke the

use permit for the system and/or refer the matter to the Town Board for appropriate corrective action.

**SECTION 5.100 RECORDING OR EXPIRATION OF PERMITS**

Any permit issued pursuant to this local law shall expire within sixty (60) days from the date of issuance thereof unless within such sixty day period, such permit and plans shall have been filed and duly recorded by the applicant at the Town Clerk's Office. Extensions will be provided at the discretion of the construction permit issuing officer depending on circumstances, (e.g. weather, construction season) up to a period of one (1) year.

**ARTICLE VI  
ENFORCEMENT**

**SECTION 6.010 PENALTY**

Any person owning, controlling, or managing any building, structure, land, or premises therein, or whereon there shall be placed on or there exists a structure or system in violation of this local law; and any person who shall commit or assist in the commission of any violation of this local law, or who shall build, erect, construct, or attempt the same to any structure contrary to the plans or specifications submitted to the authorizing official and by him certified as complying with this local law; and any person who shall omit, neglect, or refuse to do any act required by this local law, shall be subject to a civil penalty of not more than two hundred fifty dollars (\$250.00) to be recovered by the Town Board in any court of competent jurisdiction. Penalty reoccurs every thirty (30) days until condition is corrected. Where the person committing such violation is a partnership, association, or corporation, the principal executive officer, partner, agency, or manager may be considered to be the person for the purpose of this article.

**SECTION 6.020 ALTERNATIVE REMEDY**

In case of any violation or threatened violation of any of the provisions of this local law, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use, to restrain, correct or abate such violation to prevent the use of the individual sewage treatment system or to prevent any illegal act, conduct, business, or use regarding such treatment system.

**SECTION 6.030 MISREPRESENTATION**

Any permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town Board under Sections 6.010 and 6.020 of this local law.

**E VII  
MISCELLANEOUS PROVISIONS**

SECTION 7.010 COMPLAINTS

- A. Signed complaints and/or corrective decisions by any person against any homeowner in the Town of Smithville must be submitted in writing to the Town Board for consideration: the Town Board shall direct the Sanitary Inspector to determine whether or not the existing facility on a property is adequate or does not function properly. In such cases, the Sanitary Inspector shall notify the owner of said premises in writing that a complaint has been formally made and he has been authorized by the Town Board to inspect the sanitary system on such premises to determine whether the system is functioning properly. A copy of such notice shall be sent to the Town Clerk. Upon receipt of such notice, the described procedures for site inspections on premises shall be followed (Section 5.090 Site Inspections).

SECTION 7.020 INTERPRETATION

Where the conditions imposed by any provision of this local law are less restrictive than comparable conditions imposed by any other provisions of this local law, or of any other statute, ordinance, local law, order, rule, regulations the provisions which are more restrictive shall govern.

SECTION 7.030 SEVERABILITY

The provisions of this local law are severable. If any article, section, subsection, or provision shall be invalid, invalidity shall apply only to the article, section, subsection, or provision adjudged invalid, and the rest of this local law shall remain valid and effective.

SECTION 7.040 SAVINGS CLAUSE

The adoption of this local law shall not affect or impair any act done, offense committed, right accrued or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time this local law takes effect.

SECTION 7.050 EFFECTIVE DATE

This local law shall take effect immediately after its passage, publication, and filing with the Secretary of State, and as prescribed by Section 308 (d) of the Public Health Law.

This law is intended to supercede Local Law No.1 of the year 1980, entitled “Sewage Disposal Law.” This law shall apply to all unapproved applications in the hands of the Ordinance Officer or Sanitary Inspector at the effective date and all future applications received on or after the effective date.

Local Law No.1 of 1980, “Sewage Disposal Law”, is hereby repealed as of the effective date of this law, except as it may apply to old applications and existing facilities.

SECTION 7.060 AMENDMENTS

All amendments to this local law shall be in accordance with the provisions of the Town Law applicable thereto.

SECTION 7.070 HIGH GROUNDWATER DETERMINATION

Subsurface conditions may be determined by digging a hole 5 feet deeper than the anticipated depth of the proposed leaching facility.

The determination of the seasonal high groundwater level should preferably be made during the months of March, April, May, or June; such determination may be made by monitoring the water level in the open soil test pit as described above, for a period of not less than twenty-four hours and recording the highest water level observed. If such determination is made at other than such times, the seasonal high groundwater shall be evaluated and certified by a qualified person approved by the (Town or Village Board).

SECTION 7.080 SOIL PERCOLATION TEST

All tests shall be made within the area of the proposed sewage treatment system. At least one soil percolation test shall be made in the area proposed for each sewage treatment system. More tests may be required.

The procedure noted below shall be followed in performing a soil percolation test:

1. Dig a hole approximately 12 inches in diameter with vertical sides. If a tile trench field is being considered, the bottom of the percolation hole shall be six (6) inches below the anticipated trench bottom. If a seepage pit is under consideration, percolation tests shall be run at ½ depth and at the full estimated depth of the seepage pit. In order to facilitate the running of the test, a larger excavation shall be made for the upper portion of the hole with the actual test hole in the bottom.
2. Fill the test hole with water and allow it to completely seep away. For all soils, excepting clean sands and gravels, this must be done at least four hours, but not more than 24 hours before the test and again at the time of the test. For clean sands and gravels, pre-soaking must be done at the time of the test. After the water has seeped away, remove any loose soil that has fallen from the sides of the hole. Place a one (1) inch layer of small stones in the bottom of the test hole to reduce scouring and silting action.
3. Pour clean water into the hole, with as little splashing as possible, to a depth of six inches above the bottom of the hole.
4. Observe and record the time in minutes required for the water to drop one inch as measured from a fixed reference point.
5. Repeat steps 3 and 4 of the test, a minimum of three times until the time for the water to drop one inch for two successive tests gives approximately equal results. The last test will then be taken as the stabilized rate or percolation and the time recorded for this test will be the design basis for determining the square footage of leaching or absorptive area required for a

subsurface system. For assume the rates were running a test above):

|   |    |
|---|----|
| 1 | 14 |
| 2 | 20 |
| 3 | 24 |
| 4 | 27 |
| 5 | 30 |
| 6 | 30 |

absorption example, following obtained in (see 4

Run Number

Time - Minutes

The stabilized rate of percolation would be taken as 30 minutes per inch.

### **SECTION 7.090 GUIDELINES FOR OPERATION AND MAINTENANCE**

The contents of the septic tank should be pumped every 2-3 years or when the total depth of the sludge and scum exceeds 1/3 of the liquid depth of the tank. If the tank is not cleaned periodically, the solids are carried into the treatment field; rapid clogging occurs; premature failure follows and finally, the treatment field must be replaced. Pumping your septic tank is less expensive than replacing your treatment field.

Detergents, kitchen wastes, laundry wastes, and household chemicals in normal amounts do not affect the proper operation of household sewage treatment systems. However, excessive quantities can be harmful.

Avoid disposal of cigarette butts, disposable diapers, sanitary napkins, plastics, trash, etc., into your household sewage system. These items are not readily decomposed.

Septic tank additives are not recommended. Additives are unnecessary to the proper operation of household systems and may cause sludge and scum in the septic tank to be discharged into the treatment field, resulting in premature failure.

Garbage grinders substantially increase the accumulation of solids in the septic tank, as well as the solids entering the treatment fields and pits. Their disadvantages outweigh the convenience they provide and are not recommended for households with their own sewage treatment systems. If used, the septic tank size and treatment field should be increased.

All roof, cellar and footing drainage, and surface water must be excluded from the system. This drainage water can be discharged to the ground surface without treatment; make sure it drains away from your sewage treatment system.

Roof downspouts should not drain toward the treatment field.

Roots from trees in the immediate area of the absorption lines may clog the system.

Keep swimming pools (above or in-ground) away from the treatment field.

Never permit heavy equipment to pass over the treatment field.

Conserve water usage; this can prolong the life of your sewage treatment system. Check defective toilet tank valves, repair leaky fixtures, install appliances and fixtures which use less water, and avoid wasteful practices.

A sewage treatment system is normally designed to accommodate two persons per bedroom. If the household is larger than this, or if additional bedrooms are added, enlarge the system.

If surface water from higher ground is running onto the treatment field, install a ditch or berm to intercept this surface water.