

TOWN OF SMITHVILLE  
**SITE PLAN REVIEW LAW**  
LOCAL LAW # 1, 2015

**Article I - Introductory Provisions**

**Section 1.1 Enactment.** The Town Board of the Town of Smithville, Chenango County, New York, does hereby ordain and enact the Town of Smithville Site Plan Review Law pursuant to the authority and provisions of section 10 of the Municipal Home Rule Law and section 274-a of the Town Law.

**Section 1.2 Short Title.** This local law shall be known as the "Town of Smithville Site Plan Review Law." The Town of Smithville is hereinafter referred to as the "town."

**Section 1.3 Intent and Purpose.** Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure that optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town, by regulating land use activity within the town through review and approval of site plans. It is not the intent of this local law to prohibit, per se, any land use activity, but to allow all land use activities which will meet the standards set forth in this local law.

**Section 1.4 Authorization of Planning Board to Review Site Plans.** The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town as hereinafter designated, pursuant to and in accordance with, the standards and procedures set forth in this local law.

**Article II - Applicability and Definitions**

**Section 2.1 Applicability of Review Requirements.** All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:  
[These numbered land use activities DO NOT need to be reviewed.]

1. Construction, alteration, or replacement of one- or two- family dwelling and ordinary accessory structures, and related land use activities on (A) a parcel of 2 acres or greater, and (B) with a minimum of 200 feet road frontage or with highway access and a minimum of 200 feet width at the building site, and (C) 75 feet from center of road, and (D) 25 foot side yard setbacks, and (E) 15 foot rear yard setbacks.
2. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
3. Landscaping or grading which involves less than 2 acres, or, is not intended to be used in connection with a land use reviewable under the provisions of this local law.
4. Ordinary repair or maintenance or interior alterations to existing structures or uses.
5. Exterior alterations or additions to existing structures, which would not increase the square footage of the existing structure by more than 25%.

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6. Signs under 50 square feet that are not illuminated.
7. Garage, lawn and porch sales not exceeding three consecutive days. If such sales take place more often than five (5) times in any calendar year, site plan approval will be required.
8. Nonstructural agricultural or gardening uses not involving substantial timber cutting.
9. "Clear cutting" any area less than one acre.

Any parcel that is divided into three or more parcels, cumulatively, over any period of time by the same owner, irrespective of the size of the parcels, is reviewable under this law.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the planning board for a written jurisdictional determination.

**Section 2.2 Effect on Existing Uses.** This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of one year or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

**Section 2.3 Relationship of This Law to Other Laws and Regulations.** This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

**Section 2.4 Definitions.** "Family" means a person or persons related to each other by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

**ACCESS ROADS** – Private roads that provide vehicular access to sites or structures from public roads. Access roads do not include lanes customarily used by farmers to access agricultural fields or driveways to private dwellings.

**ADULT USES** – Shall be defined as follows:

*Adult Book Store and/or Video Store:* A commercial establishment which has a substantial or significant portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental, or any form of consideration, of any one or more of the following: books, magazines, periodicals, or visual representations which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities which are for sale, rental, or viewing on or off the premises. An establishment may have other principal business purposes that do not involve the offering for sale or rental or viewing of materials depicting or describing

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specified sexual activities or specified anatomical areas, and still be categorized as an adult book and/or video store so long as one of its principal purposes is offering for sale or rental, or some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

*Adult Entertainment Cabaret:* A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters, or waitresses, male or female impersonators or exotic dancers, or other similar entertainment, or films, motion pictures, videos, slides or other photographic material, or which utilizes employees, as part of their employment, to regularly expose patrons to specified sexual activities or anatomical areas.

*Adult Theater:* A theater, concert hall, auditorium, or similar establishment which for any form of consideration regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.

*Adult Motion Picture Theater:* Any motion picture theater where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by the emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Massage Establishment:* Any establishment having a fixed place of business where massages, or any other treatment or manipulation of the human body, are administered for any form of consideration or gratuity, as part of or in connection with specified sexual activities or where any person providing such treatment or services related thereto exposes specified anatomical areas. This definition shall not be construed to include hospital, nursing home, or medical clinic, or office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

*Specified Sexual Activities:* (1) Human genitals in a state of sexual stimulation or arousal; or (2) Acts of human masturbation, sexual intercourse, oral copulation, or sodomy; or (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or breasts.

*Specified Anatomical Areas:* (1) Less than completely and opaquely clothing covered human genitals, pubic region, buttocks, and female breasts directly and laterally below the top of the areola; and (2) Human male genitals in a discernible turgid state even if completely and opaquely clothing covered.

**AGRICULTURAL PRACTICES** - any activity connected with the raising of crops, livestock or livestock products as defined in Agriculture and Markets Law §301, subdivision 2, including but not limited to the following:

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- a) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b) Fruits, including apples, peaches, grapes, cherries and berries.
- c) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs.
- f) Maple sap and the production of maple products.
- g) Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h) Aquaculture products, including fish, fish products, water plants and shellfish.
- i) Woody biomass, which means short rotation woody crops raised for bio-energy.

**CLEAR CUTTING** - Substantial timber cutting where most or all trees are removed in a stand of timber.

**DORMITORY** – A building, or part thereof, where lodging, with or without meals, is provided for compensation, direct or indirect, for four or more non-family persons, residing for 30 days or more, when no kitchen or dining facilities are provided in individual rooms. The term dormitory shall include “man camps,” temporary facilities commonly set up by energy companies to provide food and shelter for employees near drilling locations. Such dormitories or man camps may include modular or mobile housing units designed to be removed from the site when drilling activity in the area is complete.

**DRILLING SITE** - A site, and its ancillary areas, used for oil, gas, or solution mining, including horizontal drilling for natural gas, as regulated in New York State pursuant to Article 23 of the Environmental Conservation Law and its implementing regulations, 6 N.Y.C.R. R. Part 550.

**DWELLING, ONE-FAMILY** – a complete, self-contained residential unit for permanent habitation by one family only, and containing one or more rooms or facilities for living including cooking, sleeping, and sanitary needs.

**DWELLING, TWO-FAMILY** - two complete, but separate, self-contained residential units, each intended for permanent habitation by one family only, in a single structure having a common roof, wall, or ceiling, and containing separate rooms and facilities for living, including cooking, sleeping, and sanitary needs.

**FAMILY** – a person or persons related to each other by blood, marriage, or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

**INDUSTRIAL STORAGE YARD** – An outside area larger than 10,000 square feet where heavy equipment, pipes, storage tanks, building materials, fuel, storage trailers, office trailers, or any other items customarily used in construction, mining, gas exploration, or similar industries are

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stored or stockpiled. Industrial storage yards do not include areas used to store equipment or materials used in agricultural practices.

**LAND USE ACTIVITY** – any construction or land use activity that changes the use or appearance of land or a structure or the intensity of use of land or a structure. “Land use activity” shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

**RECREATIONAL VEHICLE** - Type of vehicle used as temporary living quarters for recreation, camping, or travel, that either has its own motive power or is mounted on or drawn by a motor vehicle; includes travel trailer, camper trailer, pop-up camper, truck camper, and motor home.

**RECREATIONAL VEHICLE (RV) PARK** - Premises designed to accommodate three or more occupied recreational vehicles.

**SHORELINE** - The mean high water mark of any lake, pond, river, or permanent stream.

**SIGN** - A device, consisting of or containing letters, numbers or symbols affixed to, painted or represented on, or installed on, any part of a building or other structure, or otherwise placed in view of the general public, that is used to direct public attention to or to convey information about a person, idea, institution, organization, activity, place, object, product, or business; when such a device is located within a building or is permanently affixed to an operable registered motor vehicle, it shall not be deemed to be a sign.

**SITE PLAN** – A plan, to scale, showing uses and structures proposed for a parcel of land, and supporting information as required in Section 3.3.

**SKETCH PLAN** – An informal drawing of a proposed development, made prior to preparation of a detailed site plan, the purpose of which is to identify problems or concerns and determine what information shall be required on the site plan.

**STRUCTURE** – an object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

**STRUCTURE, ACCESSORY** – any structure designed to accommodate and accessory use but detached from the principle structure, such as, a free standing garage for vehicles accessory to the principle use, a storage shed, garden house, or similar facility.

**SUBSTANTIAL TIMBER CUTTING** - More than 30 percent of the merchantable trees being harvested in a stand of timber.

Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

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**Article III - Site Plan Review**

**Section 3.1 Procedures -Generally.** Prior to undertaking any new land use activity except for a one- or two-family dwelling and other uses specifically excepted in section 2.1 of this local law, a site plan approval by the planning board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

**Section 3.2 Sketch Plan.** A sketch plan conference shall be held between the planning board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the planning board of the proposal prior to the preparation of a detailed site plan; and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel. Real property service tax maps may be used as the area map.
3. A topographic or contour map of adequate scale and detail to show site topography.

**Section 3.3 Application Requirements.** An application for site plan approval shall be made in writing to the chairman of the planning board at least 10 days prior to the next scheduled meeting and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the planning board at said sketch plan conference.

Site plans shall be drawn to scale, using such a scale that all features required to be shown on the plan are readily discernible. Five sets of the plan and any accompanying documents shall be provided. An additional set of plans and documents shall be required for those projects requiring referral to the county planning agency under General Municipal Law Section 239l and Section 239m.

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***Site Plan Checklist:***

*(An applicant may request a waiver for items on this list that are not applicable or practical to provide.)*

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing; deed reference (book and page)
2. North arrow, scale (as specified by the Planning Board) and date;
3. Boundaries of the property plotted to scale;
4. Existing buildings;
5. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
12. Description of the method of securing water and location, design and construction materials of such facilities;
13. Location of fire and other emergency zones, including the location of fire hydrants;
14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
15. Location, size and design and type of construction of all proposed signs;
16. Location and proposed development of all buffer areas, including existing vegetative cover;
17. Location and design of outdoor lighting facilities;
18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
19. General landscaping plan and planting schedule;
20. An estimated project construction schedule;
21. Record of application for and status of all necessary permits from other governmental bodies;
22. Identification of any permits from other governmental bodies required for the project's execution; and
23. Other elements integral to the proposed development as may be considered necessary in the particular case by the planning board.
24. Location of wells, septic systems and leach fields on adjoining property within 200 feet of site.
25. Location of well on the site.
26. Signed and approved Town Road Use Agreement where applicable.

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**Section 3.4 State Environmental Quality Review Act (SEQRA) Form.** An application for site plan review shall include a Short or Full Environmental Assessment Form, whichever is deemed appropriate by the board.

**Section 3.5 Completeness of Application.** An application is not complete, and shall not be considered, until deemed complete by resolution of the board. If an application is deemed incomplete, the board shall provide the applicant a written list of missing information required to complete the application. No refund of application fees shall be made and no additional fees shall be required upon submittal of additional information. The applicant shall have 90 days from date of notification to complete the application. After that deadline, the application needs to be submitted as a new application and the application fee must be paid again.



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**Section 3.6 Required Fee.** An application for site plan review shall be accompanied by a fee, as determined by the following schedule:

One or two family dwelling	\$ 50.00
Business/change in land use	\$100.00

**Section 3.7 Reimbursable Costs.** Cost incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. Applicant will be notified in advance of incurring such costs.

**Article IV - Review Standards**

**Section 4.1 General Standards and Considerations.** The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of stormwater and drainage facilities; compliance with any required state stormwater control permits.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
10. Overall impact on the neighborhood including compatibility of design consideration.
11. Overall compatibility with natural resource and/or rural characteristics of site.

**Section 4.2 Specific Standards and Considerations.** The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

**Section 4.2.1 Access Roads 300 feet or greater in length.**

1. Access roads shall not exceed 12% slope at any point.
2. Access roads shall intersect with public roads at a 90 degree angle +/- 10 degrees.
3. Within 50 feet of the public road, the grade of the access road shall not exceed 5%.
4. Access roads must obtain any permits required by the Town of Smithville, Chenango County or New York State and must comply with any conditions imposed in such permits.
5. Access roads must use culverts approved by the town, county or state when there is a ditch where the access road intersects with a town, county, or state road.

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6. Sight distance where the access road meets the public road shall be no less than 500 feet. If it is not possible to have 500 feet in sight distance, warning signs must be posted or flagmen used when vehicles are entering or exiting the road.
7. Access roads shall not be less than 100 feet from an intersection.
8. Design of the access road shall prevent storm water entering the public roadway.
9. The surface of any access road shall be adequate to prevent mud being deposited by vehicles in the public roadway.

**Section 4.2.2 Adult Uses.** It is the intent of the Town of Smithville to regulate Adult Uses in order to reduce or mitigate potential secondary impacts of such uses that have occurred in other communities, including, but not limited to, increased crime rates, noise, and traffic; decreased property values; and general deterioration of neighborhoods and hindrance of economic development.

1. Adult uses shall be permitted subject to the following restrictions:
  - (a) Adult uses are prohibited within:
  - (b) One Thousand (1,000) feet of any single-family, two-family, or multiple-family dwelling.
  - (c) One Thousand (1,000) feet of any public or private school or day care center.
  - (d) One Thousand (1,000) feet of any church or other religious facility or institution.
  - (e) One Thousand (1,000) feet of any public park, public bike path, playground, playing field, cemetery, or civic or recreational facility.
  - (f) One Thousand (1,000) feet of any other existing adult use.
2. No more than one adult use shall be located on any lot.
3. The distances provided above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the property parcel from which the adult use is to be separated.
4. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any property not operating as an adult use. This provision shall apply to any sign, show, window, or other opening.
5. There shall be no outdoor sign, display or other advertising of any kind other than one identification sign limited to only the name of the establishment.

**Section 4.2.3 Dormitory**

1. Dormitories shall be located a minimum of 150 feet from the centerline of any road and shall not be closer than 20 feet to any property line.
2. One parking space per sleeping room plus one parking space for each on-duty employee.
3. Parking shall be located at the side or rear of the structure and shall not be closer than 20 feet to any property line.
4. The parking lot must be paved or gravel and in either case must be designed to prevent storm water runoff to adjoining properties or roadways through use of swales, retention ponds, etc. Storm water runoff from structures must also be controlled.
5. The dormitory must meet all NYS Building Codes and all codes for drinking water and waste disposal.

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6. Trash facilities such as garbage cans or dumpsters shall be screened from public view.
7. Landscaping materials shall be of appropriate size, quantity, and character to provide an attractive setting for dormitory residents, neighbors, and those passing by.
8. Contact information for the manager and the owner of the dormitory shall be on file with the Town Code Enforcement Officer.
9. There shall be in place either a reclamation plan or a transition plan. A reclamation plan will show how the site will be returned to a natural state should the structures be removed. A transition plan will detail how the structures on the site will be put to another use or, if the structures are to be removed, how the site will be changed to another use such as single-family homes or any other use as allowed by law.

**Section 4.2.4 Industrial Storage Yard**

1. Nothing shall be stored within 100 feet of the centerline of an adjoining road.
2. Nothing shall be stored within 20 feet of any property line.
3. Any repairs and maintenance shall be either conducted in an enclosed structure or an impervious surface with an appropriate storm water drainage and detention plan in place so as to minimize infiltration of chemicals or petroleum product fluids in the ground.
4. Natural vegetation shall be retained as much as possible and efforts shall be made to control dust.
5. Any entrance to or exit from the site shall have 250 feet of site distance and shall be no closer than 50 feet to any intersection or any other entrance/exit.
6. Driving surfaces within the site shall be adequate to prevent spreading of mud to public roads and storm water shall not drain onto public roads or adjoining properties.
7. Items stored on site shall be kept in a neat, orderly, and safe manner. Any scrap material no longer intended or in condition for use shall be removed from the site.
8. Contact information for the site shall be on file with public safety officials in case of spills, fires, or other incidents that may occur when no employees are on site.

**Section 4.2.5 Recreational Vehicle (RV) Park**

1. No recreational vehicles space shall be sited within 150 feet of the centerline of any road.
2. No recreational vehicle shall be parked within thirty (30) feet of another recreational vehicle or a property line;
3. No parking or loading, or maneuvering incidental to parking or loading, shall be permitted on a public road;
4. Roads within a recreation vehicle park shall afford safe and convenient access to all spaces and facilities, and shall provide all-weather access to sites. Road surfaces should be adequate to prevent the spread of soil to public roads and dust should be controlled.
5. Natural vegetation should be retained to the maximum extent practicable.
6. Drinking water supplies, waste disposal, and electrical supply shall meet all New York State codes. Appropriate hookups shall be provided at each site
7. Dumpsters or trash receptacles shall be screened from view of park guests and the general public.
8. The park shall be maintained in a neat and orderly manner.
9. Contact information for the park manager or owner shall be on file with the Town Code Enforcement Officer.

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**Section 4.2.6 Signs.** The following criteria shall apply to signs that are fifty or more square feet per side or are illuminated.

1. Signs shall not be more than 100 square feet per side, shall have only two sides, and shall not be over 16 feet in height.
2. Signs shall be properly located to avoid obstructing sight distances at intersections or anywhere along a road where traffic safety could be compromised. In no case shall a sign resemble a traffic safety device such as a stop sign, speed limit sign, caution sign, etc.
3. Signs advertising an event shall be removed within 7 days of the event's conclusion.
4. Signs shall not be internally illuminated. External illumination shall be shielded so light shines on the sign and does not cause off-premises glare. Illumination shall be steady in nature and shall not flash, pulsate, rotate, move, or be intermittent except for public service signs showing time and temperature or non-commercial public information.
5. Signs shall be legible in the circumstances in which they are seen.
6. A structure, business, or other land use activity may have only two double-sided signs that are over 10 square feet per side

**Section 4.2.7 Drilling Sites.** Pursuant to Environmental Conservation Law Section 23-0303(2) which declares that New York State's regulatory program for oil, gas, and solution mining "supersede(s) all local laws or ordinances relating to the regulation of the oil, gas, or solution mining industries; but shall not supersede the local government jurisdiction over local roads or the rights of the local governments under the real property tax law," the following criteria for drilling sites shall be met:

1. The owner and/or operator of the Drilling Site shall enter into a Road Use Agreement with the Town to plan routes and to protect and repair road damage caused by high volumes of truck traffic within the Town. Such a Road Use Agreement shall be based on a template approved by the Town either through a Road Use Law, if one exists, or through resolution of the Town Board.

**Section 4.2.8 Shoreline Standards and Considerations.**

1. All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.
2. No on-site sewage tile field or seepage pit shall be located within one hundred (100) feet of any shoreline and no septic or other holding tank shall be located within fifty (50) feet of any shoreline, as measured from the normal high water mark of the waterbody.
3. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system.
4. Any marina, boat service facility or any storage of petroleum products within one hundred (100) feet or reasonable setback, as determined necessary by the planning board, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dyke shall be constructed in such manner so as to afford adequate protection.

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5. Any paved or otherwise improved parking, loading or service area within one hundred (100) feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

**Article V - Public Hearing and Planning Board Decision**

**Section 5.1 Public Hearing.** The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of a complete application for site plan review, and may be held in conjunction with any public hearing that may be required by SEQRA. Such public hearing shall be advertised in the town's official newspaper, or if there is none, in a newspaper of general circulation in the town at least five (5) days before the public hearing. The Planning Board shall mail a notification to the applicant at least ten (10) days before the public hearing.

**Section 5.2 SEQRA Compliance.** The Planning Board shall comply with all requirements of SEQRA before a decision is made on a site plan.

**Section 5.3 Compliance with General Municipal Law.** The Planning Board shall refer the project for review by the Chenango County Planning Department when required by General Municipal Law Section 239-1 and Section 239-m.

**Section 5.4 Planning Board Decision.** Within 62 days of receipt of the application for site plan approval or if a public hearing is held within 62 days of public hearing, the planning board shall render a decision. In its decision the planning board may approve, approve with modifications or disapprove the site plan. The time period in which the planning board must render its decision can be extended by mutual consent of the applicant and the planning board.

1. **Approval.** Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail or e-mail if requested.
2. **Approval with Modifications.** The planning board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the planning board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail or e-mail if requested. Such approval with modifications shall be valid for one year.
3. **Disapproval.** Upon disapproval of the site plan the decision of the planning board shall be filed with the town clerk and a copy thereof mailed to the applicant by certified mail or e-mail if requested, along with the planning board's reasons for disapproval.

TOWN OF SMITHVILLE  
**SITE PLAN REVIEW LAW**  
LOCAL LAW # 1, 2015

**Section 5.5 Filing of the Final Approved Site Plan.** Following approval or approval with modifications of any site plan, no building permits shall be issued until a final copy of the site plan, including any modifications made during the review process, is filed with the Town Clerk. The final approved site plan must be drawn to scale by a licensed Engineer, Architect, or Surveyor and sealed by same.

**Article VI - Appeal of Planning Board Decision**

**Section 6.1 Appeal Procedure.** Any person aggrieved by any decision of the planning board may appeal to the Town Board for a review.

Any person aggrieved by any decision of the planning board or any officer, department, board or bureau of the town, may apply to the supreme court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the town clerk.

**Article VII - Miscellaneous Provisions**

**Section 7.1 Enforcement Officer.** The town board may appoint an enforcement officer to carry out the duties assigned by this local law or by any additional regulations adopted pursuant to section 7.2 hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the planning board and other officials and agencies, as appropriate.

**Section 7.2 Further Regulations by Planning Board.** The planning board may, after a public hearing, adopt further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law. Such rules and regulations must be approved by the Town Board before they become effective.

**Section 7.3 Amendments.**

1. The town board may on its own motion, on petition, or on recommendation of the planning board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.
2. All proposed amendments originating by petition, or by motion of the town board, shall be referred to the planning board for a report and recommendation thereon. The planning board shall submit its report within thirty (30) days after receiving such referral. Failure of the planning board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

**Section 7.4 Integration of Procedures.** Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

TOWN OF SMITHVILLE  
**SITE PLAN REVIEW LAW**  
LOCAL LAW # 1, 2015

**Section 7.5 Enforcement.** Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars (\$250) or by penalty of two hundred fifty dollars (\$250) to be recovered by the town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

**Section 7.6 Severability.** The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

# 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 Smithville, Chenango Co., New York

Local Law No. 1 of the year 2015

A local law for Site Plan Review  
(Insert Title)

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

County  City  Town  Village  
(Select one:)

of Smithville, Chenango Co., New York as follows:

The Town Board of Smithville, Chenango County, New York, adopts this Local Law with the intent and purpose to promote the health, safety and general welfare of the Town, and to provide review, approval or disapproval of site plans for land uses within the Town pursuant to and in accordance with the standards and procedures set forth in this Local Law

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



(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 2015 of the (County)(City)(Town)(Village) of Town of Smithville was duly passed by the Town Board on March 16, 2015, 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) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**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) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(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) *(Name of Legislative Body)* (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\*)*

\* 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.

*Alison B. Owens*  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: March 17, 2015

(Seal)

STATE OF NEW YORK  
DEPARTMENT OF STATE

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

March 20, 2015

Alison B Owens  
Town Clerk  
PO Box 217  
5285 State Hwy 41  
Smithville NY 13841-0217

**RE: Town of Smithville, Local Law 1 2015, filed on March 20, 2015**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492

**RECEIVED**  
**MAR 26 2015**  
**Town of Smithville**



Department  
of State