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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 1981.

A local law _____ **“ENVIRONMENTAL QUALITY REVIEW ACT”** _____
(Insert title)

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

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

A LOCAL LAW of the Town of Smithville pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

BE IT ENACTED by the Town Board of the Town of Smithville as follows:

SECTION 1.

- A. Unless the context shall otherwise require, the terms, phrases, words, and their derivatives used in this local law shall have the same meaning as those defined in section 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.
- B. “Town” shall mean the Town of Smithville.

SECTION 2.

No decision to carry out or approve an action other than an action listed in section 3(B) hereof or section 617.12 of 6 NYCRR as Type II action, shall be made by the Town Planning Board or by a department, board commission, officer, or employee of the town until there has been full compliance with all requirements of this local law and Part 617 of Title 6 NYCRR, provided, however, that nothing herein shall be construed as prohibiting,

- a. The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the town to approve, commence, or engage in such action or
- b. the granting of any part of an application which related only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this local law and Part 617 of Title 6 NYCRR have been fulfilled.

SECTION 3

- A. Consistent with part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in section 617.12 of Title 6 NYCRR as Type I, are likely to have a significant effect on the environment:

TYPE I ACTIONS (Section 617.12 SEQR)

1. The adoption of a municipality's land use plan or zoning regulations or the adoption by any agency of a comprehensive resource management plan.
2. The following changes in the allowable uses within any zoning district, affecting 25 or more acres of the district:
 - i. Authorizing industrial or commercial uses within a residential or agricultural district; or
 - ii. Authorizing residential uses within an agricultural district
3. The granting of a zoning change at the request of an applicant for an action that meets or exceeds one or more of the thresholds given in other sections of this list.
4. The acquisition, sale, lease, or other transfer of 100 or more contiguous acres of land by a state or local agency.
5. Construction of new residential units which meet or exceed the following thresholds:
 - i. 10 units in municipalities which have not adopted new zoning regulations;
 - ii. 50 units not to be connected (at commencement of habitation) to community or publicly-owned utilities;
 - iii. In a city, town, or village having a population of less than 150,000: 250 units to be connected (at commencement of habitation) to community or publicly-owned utilities;
 - iv. In a city, town, or village having a population of greater than 150,000 but less than 1,000,000: 1,000 units to be connected (at commencement of habitation) to community or publicly-owned utilities.
 - v. In a city, town, or village having a population of greater than 1,000,000: 2,500 units to be connected (at commencement of habitation) to community or publicly-owned utilities.
6. Construction of new non-residential facilities which meet or exceed any of the following thresholds, or the expansion of existing non-residential facilities by more than 50 percent of any of the following thresholds, providing that the expansion and the existing facilities, when combined, meet or exceed any threshold contained in this section.
 - i. A project or action which involves the physical alteration of 10 acres;
 - ii. A project or action which would use ground or surface water in excess of 2,000,000 gallons per day;
 - iii. Parking for 1,000 vehicles.
 - iv. In a city, town, or village having a population of 150,000 persons or less: a facility with more than 100,000 square feet of gross floor area;
 - v. In a city, town, or village having a population of more than 240,000 square feet of gross floor area.
7. Any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height.
8. Any non-agricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, Article 25, Section 303) which exceeds 10 percent of any threshold established in this section.
9. Any action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within or contiguous to any facility or site listed on the National Register of Historic Places, or any historic building, structure, or site, or prehistoric site that has been proposed by the Committee on the Registers for consideration by the New York State Board on Historic Preservation for a recommendation to the State Historic Officer for nomination for inclusion in said National Register.
10. Any project or action, which exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly-owned or operated park land, recreation area, or designated open space.
11. Any action which exceeds the locally established thresholds or of no such thresholds are established, any action which takes place wholly or partially within or substantially contiguous to any Critical Environmental Area designated by a local agency pursuant to 617.4.

ADDITIONAL TYPE I ACTIONS

12. Any project or action that will involve the physical alteration of wetlands greater than one acre.
 13. Any facility which will treat, store, or dispose of toxic, poisonous, or nuclear wastes, or waste products or any other material which is or may be hazardous to the health or safety of plant, animal, or human life in the Town of Smithville.
 14. Any project, activity, or action that, by its nature, poses an eminent public health hazard.
- B. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in 617.02 of Title 6 NYCRR as Type II actions, are deemed not to have a significant effect on the environment:

TYPE II ACTIONS (Section 617.13 SEQR)

1. Replacement of such facility, in kind, on the same site unless such facility meets any of the thresholds in 617.12
2. The granting of individual setback and lot line variances.
3. Agricultural farm management practices including construction, maintenance, and repair of farm buildings and structures and land use changes consistent with generally accepted principles of farming.
4. Repaving of existing highways not involving the addition of new travel lanes.
5. Street openings for the purpose of repair or maintenance of existing utility facilities.
6. Installation of traffic control devices in existing streets, roads, and highways.
7. Public or private forest management practices other than the removal of trees or the application of herbicides or pesticides.
8. Construction or placement of minor structures accessory or appurtenant to existing facilities including garages, carports, patios, home swimming pools, fences, barns, or other buildings not changing land use or density.
9. Maintenance of existing landscape or natural growth.
10. Mapping of existing roads, streets, highways, uses, and ownership patterns.
11. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business profession.
12. Sales of surplus government property other than land, radioactive material, pesticides, herbicides, or other hazardous materials.
13. Collective bargaining activities.
14. Investments by or on behalf of agencies or pension or retirement systems.
15. Routine or continuing agency administration and management not including new programs or major reordering or priorities.
16. License and permit renewals where there will be no material change in permit condition or the scope of permitted activities.
17. Routine activities of educational institutions which do not include capital construction.
18. Information collection including basic data collection and research, master plan study components, water quality and pollution studies, traffic counts, engineering studies, boring studies, surveys, and soils studies that are not a preliminary step towards any Type I project.
19. Minor temporary uses of land having negligible or no permanent effect on the environment.

SECTION 4

For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants shall file a written statement with the Town Planning Board setting forth the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the Town Planning Board and shall contain such additional relevant information as shall be required in the

prescribed form. Such statement shall be accompanied by drawings, sketches, and maps, if any, together with any other relevant explanatory material required by the Town Planning Board.

SECTION 5

Upon receipt of a complete application and a statement, the Town Planning Board shall cause a notice thereof to be posted on the signboard, if any, of the town maintained by the town, and may also cause such notice to be published in the official newspaper of the town, if any, or in a newspaper having general circulation within the town, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the Town Planning Board no later than a date specified in such notice.

SECTION 6

- a. The Town Planning Board shall render a written determination of such application within 15 days following receipt of a complete application and statement, provided however, that such period may be extended by mutual agreement of the applicant and the Town Planning Board. The determination shall state whether such proposed action may or will not have a significant effect on the environment. The Town Planning Board may hold informal meetings with the applicant and may meet with, and consult, any other person for the purpose of aiding it in making a determination on the application (See Appendix A for "Criteria for Determining Environmental Significance").
- b. The time limitations provided in this local law shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance or regulation of the town.

SECTION 7

Every application for determination under this local law shall be accompanied by a reasonable fee set forth in this section to defray the expenses incurred in rendering such determination. The fees shall be set forth in section 617.11 .

SECTION 8

If the Town Planning Board determines that the proposed action is not an exempt action (See Appendix B "Exempt Actions"), not an action listed in section 3(B) hereof or section 617.12 of Title 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the Town Planning Board shall prepare, file, and circulate such determination as provided in section 617.7 (b) of Title 6 NYCRR and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this local law and Part 617 of Title 6 NYCRR.

SECTION 9

Following a determination that a proposed action may have a significant effect on the environment, the Town Planning Board shall, in accordance with the provisions of Part 617 of Title 6 NYCRR:

- a. In the case of an action involving the applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement, or
- b. In the case of an action not involving an applicant, shall prepare a draft environmental impact statement. If the applicant decides not to submit an environmental impact report, the Town Planning Board shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion notify the applicant that the processing of the application will cease and that no approval will be issued. The Town Planning Board may require an applicant to submit a fee to defray the expense of it to defray the expense to it of preparing a draft environmental impact statement or reviewing the same if it is prepared by the applicant. Such fee shall be determined as set forth in section 617.11 .

SECTION 10

Upon completion of a draft environmental impact statement prepared by or at the request of the town, a Notice of Completion containing the information specified in Section 617.7 (d) of Title 6 NYCRR shall be prepared, filed, and circulated as provided in 617.7 (e) and (f) of Title 6 NYCRR. In addition, it shall be published in the official newspaper, if any, of the town, or if none, a newspaper having general circulation within the town and a copy thereof shall also be posted on a signboard of the town. Copies of the draft environmental impact statement and the Notice of Completion shall be filed, sent, and made available as provided in section 617.7 (e) and (f) of Title 6 NYCRR. If the Town Planning Board determines to hold a public hearing on a draft environmental impact statement, notice thereof shall be filed, circulated, and sent in the same manner as the Notice of Completion and shall be published in the official newspaper, if any, of the town, or if none, a newspaper having general circulation within the town at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before such comments shall be received. The hearing shall commence no less than 50 calendar days nor more than 60 calendar days of the filing of the draft environmental impact statement, except as otherwise provided where the Town Planning Board determines that additional time is necessary for the public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under other applicable law.

SECTION 11

If, on the basis of a draft environmental impact statement or a public hearing thereon, the Town Planning Board determines that an action will not have a significant impact on the environment, the proposed action may be processed without further regard to this local law.

SECTION 12

Except as otherwise provided herein, the Town Planning Board shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR, provided further that if the action involves an application, the Town Planning Board may direct an applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs, provided however, the Town Planning Board may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in this section to defray the expenses of the town in preparing and/or evaluating the same. The fee shall be determined as set forth in Section 617.11 .

SECTION 13

A Notice of Completion of final environmental impact statement shall be prepared, filed, and sent in the same manner as provided in Section 10 herein and shall be sent to all persons to whom the Notice of Completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

SECTION 14

No decision to carry out or approve an action which has been the subject of a final environmental impact statement by the Town Planning Board or by any other agency shall be made until after the filing and consideration of the final environmental impact statement. Where the Town Planning Board has been the lead agency for an action, it shall make a decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

SECTION 15

When the Town Planning Board decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:

- a) Consistent with social, economic, and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action may be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
- b) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

SECTION 16

For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

SECTION 17

The town shall maintain files open for public information of all Notices of Completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the Town Planning Board.

SECTION 18

Where more than one agency is involved in an action, the procedures of Sections 617.4 and 617.7 of Part 617 of Title 6 NYCRR shall be followed.

SECTION 19

Actions undertaken or approved by prior to the dates specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this local law and the provisions of Article 8 of the Environmental Conservation law and Part 617 of Title 6 NYCRR, provided, however, that if, after such dates a Town Planning Board modifies an action undertaken or approved prior to that date and the Town Planning Board determines that the modification may have an adverse effect on the environment, such modification shall be an action subject to this local law and Part 617 of Title 6 NYCRR.

SECTION 20

This local law shall take effect immediately upon filing with the Secretary of State.