

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
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MISCELLANEOUS
& STATE RECORDS

~~County~~
~~City~~ of SALAMANCA
~~Town~~
~~Village~~

Local Law No. ONE of the year 2003

A local law Adopting Site Plan Review Pursuant to Section 274-a of the
(Insert Title) New York State Town Law.

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of SALAMANCA as follows:
~~Town~~
~~Village~~

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

Section I. PURPOSE.

The purpose of this Local Law is to set forth general standards for the review of Site Plans to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Local Law.

Section II. APPLICABILITY AND AUTHORITY.

- (A) **Site Plan Review Required.** The provisions of Section 274-a of New York State Town Law and this Local Law shall control the approval of Site Plans. The Planning Board shall administer and review the granting of Site Plan Approval.
- (B) **Permits and Variances Not to be Issued.** A Zoning Permit, if required, Certificate of Compliance, Building Permit, variance or Special Use Permit shall not be issued until all requirements of this Local Law and all other applicable provisions of this ordinance have been met, and the Site Plan has been approved by the Planning Board.
- (C) **The function of Site Plan Review is to ensure the optimum overall conservation, protection, preservation, development, design and use of natural and man-related resources in the Town by regulating land use activity within the Town through coordinated, interrelated systems. The Site Plan itself specifies the present characteristics of a particular parcel of land and its surroundings and described intended activities and their potential impact on the community.**
- (D) **The Planning Board shall determine if the proposed activity regulated under this local law is minor or major. In general, all activities should be considered major unless it can be demonstrated that the activity will generate little noticeable increase in traffic, will not cause an increase in ambient light or noise in a given area, will not generate smoke, dust or other waste products which may impact adjacent properties, will not result in the possibility of an on street parking situation, and will not represent a significant change in the character of land use in the adjacent area. This determination shall be made after Preapplication Conference described in Section V Application Procedure. If the activity is deemed minor by the Planning Board, the Planning Board may waive certain of the individual application content requirements of Section IV Application Content, as they see fit and at their discretion, should that information be deemed unnecessary to complete an assessment of the application in accordance with Section VI Review of Site Plan.**

Section III. EXCEPTIONS.

- (A) **All new land use activities and Special Uses within the Town shall require Site Plan review and approval before being undertaken, except the following:**
 - (1) **Construction of one or two-family dwelling units and ordinary accessory structures, and related land use activities.**
 - (2) **Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Local Law.**
 - (3) **Ordinary repair or maintenance or alterations to existing structures or uses.**
 - (4) **Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%.**
 - (5) **Non-structural uses, agricultural uses, and gardening uses not involving commercial use.**
 - (6) **The sale of agricultural produce and temporary structures related to sale of agricultural produce.**
 - (7) **Signs under ten square feet.**
 - (8) **Interior structural alterations within any existing building.**
- (B) **Any person uncertain of the applicability of Site Plan Review to a given land use activity may apply in writing to the Planning Board for a written jurisdiction determination.**

Section IV. APPLICATION CONTENT.

- (A) Pre-application Approval. The content of the Site Plan shall be approved by the Planning Board, prior to filing. The number of copies shall be determined by the Planning Board.
- (B) Site Plan Checklist. An application for site plan approval shall be accompanied by information drawn from the following checklist. The formal Site Plan that is submitted for approval shall be prepared by and show the signature or seal of a licensed engineer, architect, landscape architect, or surveyor as appropriate. The Site Plan checklist includes the following information:
- (1) Title of drawing, including the name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, scale and date.
 - (3) A survey of the proposed development, including its acreage and a legal description thereof with boundaries plotted to scale.
 - (4) Location of survey datum.
 - (5) Layout, number and dimensions of lots.
 - (6) Drainage plan showing existing and finished contours and grades, and the impact on the entire watershed, and location of any slopes of five percent (5%) or greater.
 - (7) Water supply plan, including location of fire lanes and hydrants.
 - (8) Description of the method of securing water supply and location, design and construction materials of such facilities.
 - (9) Description of the method of sewage disposal and location, design and construction materials of such facilities.
 - (10) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
 - (11) Location, proposed use, height, building elevations and floor plan of all non-residential and all residential structures, yard dimensions and location of all parking, loading and stacking areas with access drives.
 - (12) Location of outdoor storage, if any.
 - (13) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
 - (14) Location, design and construction materials of all energy distribution facilities, including electrical, gas, oil, solar and wind energy.
 - (15) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
 - (16) The lines of existing and proposed streets, crosswalks and sidewalks, immediately adjoining and within the proposed site showing pedestrian access, and the names of all proposed streets.
 - (17) Location and proposed development of all open spaces, including parks, playgrounds and open reservations.
 - (18) Location and proposed development of all buffer areas, including existing vegetative cover.
 - (19) General landscaping plan and planting schedule.
 - (20) Location and design of outdoor lighting facilities.
 - (21) Location, size and design and type of construction of all proposed signs.
 - (22) An estimated project construction schedule.
 - (23) Identification of any County, State or Federal permits required for the project's execution, and documentation of application for and approval status of all necessary permits from the County, State or Federal officials.
 - (24) Description of operations. The nature and intensity of the operation and its compatibility with surrounding development.
 - (25) The means by which surrounding properties will be protected from any objectionable influences, such as noise, glare, dust, vibration, fire hazards, air pollution, water pollution, soil erosion and traffic.
 - (26) Number of shifts and maximum employment per shift.
 - (27) Additional data on other elements integral to the proposed development may be requested of a property owner or his or her agent by the Planning Board as it deems necessary and pertinent to carry out its responsibility for Site Plan review as provided in this ordinance.

SECTION V. APPLICATION PROCEDURE.

- (A) **Submission to Planning Board.** The application for Site Plan approval shall be made in writing to the Planning Board. The applicant may attend the Planning Board as it deems necessary and pertinent to carry out its responsibility for Site Plan review as provided in this ordinance.
- (B) **Coordination of Review.** In cases where any variance is required pursuant to any Town Zoning Ordinance, the Site Plan shall be the subject of a preliminary review by the Planning Board, in accordance with the review procedures set forth in this ordinance, before action is taken by the Zoning Board of Appeals.
- (C) **Documentation of Actions Taken.** The Planning Board shall file a full written record of its minutes and decisions together with all documents pertaining to the case with the Town Clerk, with a copy to the Zoning Inspector, if any, shall in addition mail a copy to the applicant.
- (D) **Pre-application Conference Recommended.** A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal Site Plan. 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 ordinance.
- (E) **Purpose of Pre-application Conference.** The intent of the pre-application conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed Site Plan. The Planning Board shall review the basic site design concept, advise the applicant as to potential problems and concerns, and generally determine the information to be required on the Site Plan. In order to accomplish these objectives, the applicant should 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. In addition, anticipated changes in the existing topography and natural features and, where applicable, measures and features to comply with flood hazard and flood insurance regulations should be shown.
 - (2) A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features.
 - (3) A topographic or contour map of adequate scale and detail to show site topography.

SECTION VI. REVIEW OF SITE PLAN.

- (A) **Consistency with Other Plans and Laws.** The Site Plan shall be reviewed to insure that it is in conformance with this Local Law, the approved Development Plan, if one is required, and all other applicable laws.
- (B) **General Standards.** The Planning Board's review of the Site Plan shall include, as appropriate, but is not limited to, the following general considerations:
 - (1) Location, arrangements, 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 storm water and drainage facilities.
 - (6) Adequacy of water supply and sewage disposal facilities.
 - (7) Adequacy of fire lands and other emergency zones and the provision of fire hydrants.
 - (8) Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

- (9) 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.
 - (10) Location, size, use of structure, nature and intensity of operations involved, size of site in relation to it, and location of site with respect to streets giving access to it are such that it will be in harmony with orderly development of the District.
 - (11) Location, nature, architectural characteristics and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
 - (12) Protection of adjacent or neighboring properties against noise, glare unsightliness or nuisances.
 - (13) Protection of solar access on adjacent or neighboring properties.
 - (14) In the case of apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation, and access or proximity to routine, day-to-day retail goods and services.
- (C) Specific Standards for Shoreline Protection. The following specific standards shall apply in conjunction with the subject uses or in the designated areas.
- (1) All construction on any shoreline lot shall be carried out in such a 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) Any marina, boat service facility or any storage of petroleum products within two hundred (200) 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 dike shall be constructed in such a manner so as to afford adequate protection.
 - (3) Any paved or otherwise improved parking, loading or service area within two hundred (200) 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.

SECTION VII PUBLIC HEARING OPTIONAL.

The Planning Board may conduct a public hearing of the Site Plan. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in the official newspaper for the Town at least ten (10) days before the public hearing. Decision shall be rendered within forty-five (45) days of the public hearing.

SECTION VIII. APPROVAL OF SITE PLAN.

- (A) Approval Procedures. Within forty-five (45) days of receipt of the application, the Planning Board shall render a decision to approve, approve with conditions or modifications, or deny. Any extension of this forty-five (45) days period may be granted upon consent of both the applicant and the Planning Board. If the Planning Board fails to act within said forty-five (45) days period or extension that have been granted, the Site Plan shall be considered approved. The Planning Board shall file said decision with the Town Clerk, and the Building Inspector, and once payment has been made by the applicant of all fees and reimbursable costs due to the Town, mail such decision to the applicant and a copy thereof shall be retained in the Town Clerk's Office.
- (B) Special Conditions. In approving the Site Plan, the Planning Board may impose conditions or modifications limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this Local Law and other applicable laws. The approval shall be conditional upon the satisfactory compliance with these conditions or modifications by the property owner and his or her agents.

(C) Standards of Approval. The Planning Board shall approve the Site Plan if it finds that the following standards are met:

- (1) The proposed Site Plan is consistent with the Development Plan, if one is required.
- (2) The proposed Site Plan is consistent with the intent, objectives and specific requirements of this Local Law and with the Town's Adopted Planning and Development policies and its comprehensive planning process, if any.
- (3) Adequate services and utilities will be available prior to occupancy.
- (4) The Site Plan is consistent with all other applicable laws.

(D) Approval Denied. Upon disapproval of a Site Plan, the Planning Board shall so inform the Building Inspector, and the Building Inspector shall deny and Building Permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval and advise the applicant of his right to appeal. Such disapproval shall be filed with the Town Clerk.

(E) Expiration. Except for subdivision plans that have been duly filed in the office of the Town Clerk, if construction of the approved development has not commenced within one (1) year from the time of Site Plan approval, approval of the Site Plan shall be deemed revoked. Extensions may be granted by the Planning Board.

SECTION IX. CONSULTANT REVIEW AND FEES.

In reviewing any Site Plan, the Planning Board may consult with but is not limited to the Zoning Inspector, if any, Fire Chief, Department of Public Works, County Planning Department and other local or county officials, the Soil Conservation Service, the State Department of Transportation and that State Department of Environmental Conservation. The Planning Board or Town Board may retain private, expert consultants to assist in the review, the cost of which shall be paid by the applicant. The applicant shall also be responsible to reimburse the Town for all costs resulting from review by the Town Engineer and/or Town Attorney.

SECTION X. INSPECTION OF IMPROVEMENTS.

The Zoning Inspector, if any, or Building Inspector, shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

SECTION XI. PERFORMANCE AS A CONDITION OF APPROVAL.

No Certificate of Compliance shall be issued until all improvements shown on the Site Plan are installed or a sufficient performance bond has been posted to guarantee completion of improvements not yet made. Such guarantee is needed to ensure that the proposed development will be built in compliance with approved plans and maps. The sufficiency of such performance guarantee shall be determined by referral to the Town Board after consultations by the Planning Board, with Town Engineer, Town Attorney and other appropriate parties.

SECTION XII. SITE PLAN REVISION.

A Site Plan application must be submitted by property owners or their agents whenever they modify a previously approved Site Plan or use change, and must accompany the new application for such revision, except for those exceptions listed in Section III of this Local Law.

SECTION XIII. INTREGRATION OF PROCEDURES.

Whenever the particular circumstances of proposed development required compliance with either the Special Use Procedure in this ordinance or the requirements of the Town or County, 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 procedures.

SECTION XIV. VIOLATION.

Whenever a violation of this Local Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Inspector, if any, or Building Inspector who shall properly record such complaint and immediately investigate and report thereon to the governing body.

SECTION XV. PROCEDURE FOR ABATEMENT OF VIOLATIONS.

- (A) A violation of this Local Law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred fifty dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this ordinance shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (B) In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Local Law, notification of the violation will be issued in writing by the Zoning Inspector, if any or Building Inspector and compliance of the Local Law must be met within five (5) business days.
- (C) A person shall be guilty of a violation, punishable in accordance with the provisions of this Local Law in any case where an order to remove any violation by any of the provisions of this Local Law has been served personally or by ordinary mail by the Zoning Inspector, if any, or Building Inspector upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof), or upon (or any part thereof), or upon the architect, builder, contractor or anyone who commits or assists in any such violation and such person shall fail to comply with such order within five (5) days after the service thereof. Each week thereafter shall constitute a separate offense and shall be punishable hereunder.
- (D) Other Remedies. In addition to the foregoing remedies, the Town of Salamanca may institute any appropriate action or proceeding to prevent or restrain any violation of this Local Law. Nothing herein contained shall limit or restrict any other procedure provided for the enforcement of this Local Law or other applicable laws.

(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. ONE of 2003 of the ~~(County)(City)~~(Town)(Village) of SALAMANCA was duly passed by the TOWN BOARD on JUNE 10 2003, 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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(repassed after disapproval) by the _____ on _____ 20____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(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.
(Name of Legislative Body)
(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 _____, above.

Virginia B. Rides

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 07/14/03

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK CATTARAUGUS
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Paul D. Papp

Signature

TOWN ATTORNEY

Title

XXXXXX
County
XXXXX of SALAMANCA
Town
XXXXXX

Date: 7/8/03