

Local Law Filing

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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 Angelica

FILED
STATE RECORDS

FEB 20 2020

DEPARTMENT OF STATE

Local Law No. 2 of the year 2020

A local law entitled Village of Angelica Site Plan Review and Land Use Law
(Insert Title)

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

County City Town Village
(Select one.)

of Angelica

as follows:

"see attached"

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

Village of Angelica
Local Law No. 2 of 2020
Site Plan Review and Land Use Law

ARTICLE I INTRODUCTORY PROVISIONS

Section 1.1 Enactment.

The Village Board of the Village of Angelica, Allegany County, New York, does hereby ordain and enact the Village of Angelica Site Plan Review Law pursuant to the authority and provisions of section 10 of the Municipal Home Rule Law and section 7-700 – 7-742 of the Village Law.

1.2 Short title.

This local law shall be known as the “Village of Angelica Site Plan Review and Land Use Law.” The Village of Angelica is hereinafter referred to as the “Village.”

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 Village. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Village and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Village and the general welfare of its inhabitants.

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. 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 Village will be enhanced by regulating land use activity within the Village through review and approval of site plans.

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 Village as herein after 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 Village shall require site plan review and approval before being undertaken, except the following:

- A. Construction of one or two-family dwelling and ordinary accessory structures, and related land use activities.
- B. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
- C. Ordinary repair or maintenance or interior alterations to existing structures or uses.
- D. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%; or having a cost value of less than \$20,000.
- E. Nonstructural agricultural or gardening uses not involving substantial timber cutting.
- F. Signs under 10 square feet.

- G. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
- H. Garage, lawn and porch sales not exceeding three days. If such sales take place more often than three (3) times in any calendar year, site plan approval will be required.

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.

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.

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.

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.

“Land use activity” means any construction or other activity which 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.

“One family dwelling” means a complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

“Shoreline” means the mean high water mark of any lake, pond, river, or permanent stream.

“Structure” means any 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” means any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

“Two family dwelling” means two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking,

sleeping, and sanitary needs.

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

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.

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 their 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:

- A. A statement and rough sketch showing:
 - 1. the locations and dimensions of principal and accessory structures,
 - 2. parking areas,
 - 3. access signs (with descriptions),
 - 4. existing and proposed vegetation,
 - 5. and other planned features;
 - 6. anticipated changes in the existing topography and natural features;
 - 7. and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- B. An area map [ex. Real Property Tax 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; and
- C. A topographic or contour map [ex. USGS Quad Map] of adequate scale and detail to show site topography.

3.3 Application requirements.

An application for site plan approval shall be made in writing to the chairman, or designee, of the planning board, 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 plan checklist:

- A. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- B. North arrow, scale and date;
- C. Boundaries of the property plotted to scale;
- D. Existing buildings;

- E. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
- F. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- G. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- H. Provision for pedestrian access;
- I. Location of outdoor storage, if any;
- J. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- K. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- L. Description of the method of securing public water and location, design and construction materials of such facilities;
- M. Location of fire and other emergency zones, including the location of fire hydrants;
- N. Location, design and construction materials of all energy distribution & generation facilities, including electrical, gas, geothermal, wind and solar energy;
- O. Location, size and design and type of construction of all proposed signs;
- P. Location and proposed development of all buffer areas, including existing vegetative cover;
- Q. Location and design of outdoor lighting facilities;
- R. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- S. General landscaping plan and planting schedule;
- T. An estimated project construction schedule;
- U. Record of application for and status of all necessary permits from other governmental bodies including for but not limited to septic, electric, water, from the Village, Department of Health, County Planning, NYSDEC, etc.;
- V. Identification of any permits from other governmental bodies required for the project's execution; and
- W. Other elements integral to the proposed development as may be considered necessary in the particular case by the planning board.

3.4 Required fee.

An application for site plan review shall be accompanied by a fee of \$100.00

3.5 Reimbursable costs.

Costs incurred by the Planning Board or Village Board for consultation fees or professional fees, including but not limited to attorney fees, engineer fees, architect fees and other extraordinary expenses incurred by the Village in connection with the review of a proposed site plan shall be charged to the applicant and must be paid promptly upon receipt. Such reimbursable costs shall not exceed actual incurred costs plus 5% for administration.

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:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting and

signs.

- B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- C. Location, arrangement, appearance and sufficiency of off street parking and loading.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of Stormwater and drainage facilities.
- F. Adequacy of water supply and sewage disposal facilities.
- G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the project area and adjoining properties, including the maximum retention of existing vegetation.
- H. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- I. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- J. Overall impact on the neighborhood including compatibility of design consideration.
- K. Protection of adjacent properties against noise, glare, traffic impacts, unsightliness or other features of potential concern to the neighbors.

4.2 Specific standards and considerations.

The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

The purpose here is maintaining the historical character of the village and mitigating the aforesaid impacts when a commercial project abuts residential property, while balancing the needs of new construction and updates to properties. Special considerations within the official National Historic District may be considered to preserve the assets that make that designation.

Finally, any proposed project or development must adhere to the regulations to be established by the Planning Board in each of the three development zones: historic, business and residential and comport with the Comprehensive Plan.

4.3 Shoreline standards and considerations.

- A. 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.
- B. On-site sewage tile field or seepage pit, septic or other holding tank shall be located no closer to any shoreline than allowed and permitted by Allegany County Health Department.
- C. 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 application for site plan review and shall be advertised in the Village's official newspaper, or if there is none, in a newspaper of general circulation in the Village at least five (5) days before the public hearing.

5.2 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.

- A. **Approval.** Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Village, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Village clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- B. **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 Village, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Village clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- C. **Disapproval.** Upon disapproval of the site plan the decision of the planning board shall immediately be filed with the Village clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the planning board's reasons for disapproval.

ARTICLE VI APPEAL OF PLANNING BOARD DECISION

Section 6.1 Appeal procedure.

A. Appeal to the Village Board of Trustees. Any person aggrieved by the final site plan determination of the Planning Board on property within the boundaries of the Village of Angelica may appeal the Planning Board decision within 14 days of receipt of that decision by filing a Notice of Appeal and a Filing Fee as determined by the fee schedule set by the Village Board of Trustees. In calculating the time for appeal, the date the decision was received shall not be included. The appeal time shall begin tolling the day after the decision is delivered. The decision or appeal request can be delivered by fax, email or by regular mail or delivery service provided the delivery can be confirmed (e.g. certified mail, FedEx, or UPS). The appeal shall be date-stamped when received by the town clerk or her authorized representative. A complete statement of reasons why the appellant believes the Planning Board's decision is in error shall be filed with the Village Clerk with a copy served on the Planning Board Chairman within 14 days after the appeal is filed with the Clerk. The Planning Board shall have 14 days to file a rebuttal with the Village Clerk. The Village Board shall consider the matter within 14 days of the filing of the Planning Board's rebuttal. A copy of the notice of appeal and all pleadings and papers shall be served on the Village Clerk, the Village Mayor and trustees of the Board. The Planning Board's determination may only be reversed or revised with a vote of at least $\frac{3}{4}$ of the total Board (including the mayor). Failure to appeal within the time set forth bars any further action by the Board of Trustees on the matter.

B. Judicial Review. Any person aggrieved by any decision of the planning board or any officer,

department, board or bureau of the Village, 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 Village clerk.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 7.1 Enforcement officer.

The Village 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.

7.2 Further regulations by planning board.

The planning board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

7.3 Amendments.

- A. The Village 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.
- B. All proposed amendments originating by petition, or by motion of the Village 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.

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 Village, 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.

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 less than two hundred fifty dollars (\$250) or more than one thousand (\$1000) to be recovered by the Village in a civil action. Each week that the violation continues shall be deemed a separate offense.

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.

ARTICLE VII. EFFECTIVE DATE

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

(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. 2 of 2020 of the ~~(County)(City)(Town)(Village)~~ of Angelica was duly passed by the Board of Trustees (Name of Legislative Body) on February 18 2020, in accordance with the applicable provisions of law.

~~**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 _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted 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 _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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.~~

~~**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 _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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 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.

Karen E. Hedman

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

Date: 2-19-2020

(Seal)