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SITE PLAN REVIEW LAW

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## ARTICLE I

### Introductory Provisions

Section 1.010 - Enactment. The Town Board of Sherburne, New York, does hereby ordain and enact the Town of Sherburne 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 1.020 - Short Title. This local law shall be known as the "Sherburne Site Plan Review Law." The Town of Sherburne is hereinafter referred to as the "town."

Section 1.030 - 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 the optimum overall conservation, protection, preservation, development and use of the natural and manrelated 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 1.040 - 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 2.010 - 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:

1. Construction of one or two-family dwelling 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 of interior alterations to existing structures of uses.
4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 10%.
5. Non-structural agricultural or gardening uses.
6. Signs under 10 square feet.
7. The sale of agricultural produce and temporary structures related to the sale of agricultural produce.

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 2.020 - 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, which 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 2.030 - 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 2.040 - Definitions.

“Family” - means a person or persons related to each other by blood, marriage, or adoption, (and/or not more than three individuals not so related), 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, or the deposit of fill material on any existing land area.

"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 3.010 - 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 2.010 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 3.020 - 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 his 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 areas 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

3. A topographic or contour map of adequate scale and detail to show site topography.

Section 3.030 - Application Requirements. An application for site plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by information contained on the following check list. Where the sketch plan conference is 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:

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale 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 of all parking and truck loading areas, showing access and egress;
7. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
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 public 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;
23. Location, design and material used as land fill material; and



24. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board. Section 3.040 – Required Fee. Any application for site plan review shall be accompanied by a fee of \$250.00.

Section 3.050 – Reimbursable Costs. Costs 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.

ARTICLE IV  
Review Standards

Section 4.010 – General Standards and Considerations. The Planning Board's review of the site plan shall include, as appropriate, but it 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 storm water and drainage facilities.
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 considerations.

Section 4.020 - Specific Standards and Considerations. The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

Section 4.021 - 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 water body.

3. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate sewage 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 insurance 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 a manner so as to afford adequate protection.

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 5.010 - 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 forty-five (45) days of the receipt of application for site plan review and 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.

Section 5.020 - Planning Board Decision. Within forty-five (45) days of receipt of the complete application for site plan approval and within forty-five (45) days of the closure of a Public Hearing (if applicable), 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 immediately 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, return receipt 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 immediately 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, return receipt requested.

3. Disapproval. Upon disapproval of the site plan the decision of the Planning Board shall immediately be filed with the Town 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 6.010 - Appeal Procedure. 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 7.010 - Enforcement Officer. An enforcement officer shall carry out the duties assigned by this local law or by any additional regulations adopted pursuant to Section 7.020 hereof. 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 7.020 - 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.

Section 7.030 - 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 7.040 - 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 Town 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.

Section 7.050 - 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) 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 7.060 - 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 provisions(s) adjudged invalid, and the rest of this local law shall remain valid and effective.