

TOWN OF CHERRY VALLEY

SITE PLAN LAW

CHERRY VALLEY, NEW YORK

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ARTICLE 1 – INTRODUCTORY PROVISIONS

SECTION 1.010 – ENACTMENT:

The Town Board of the Town of Cherry Valley, Otsego County, New York, does hereby ordain and enact the Town of Cherry Valley 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 “Town of Cherry Valley Site Plan Review Law”. The Town of Cherry Valley is hereinafter referred to as the “town”.

SECTION 1.030 – INTENT AND PURPOSES:

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 man-related resources of the town, by regulating land use activity within the town through review and approval of site plans. It is not the intent of this local law to prohibit per se any land use 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 this local law.

ARTICLE 2 – APPLICABILITY AND DEFINITIONS

SECTION 2.010 – APPLICABILITY OF REVIEW REQUIREMENTS:

All commercial and industrial 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 commercial or industrial land use reviewable under the provisions of this local law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Exterior alterations or additions to existing commercial structures which would not increase the square footage of the existing structure by more than 25%; and having a cost value of less than ten thousand (\$10,000.00) dollars. All additions to single family and two-family dwelling units shall be exempt from site plan review.
5. Structural and nonstructural agricultural or gardening uses not involving substantial timber cutting.

6. Signs under ten (10) square feet.
7. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
8. 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.

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. Fire, Flood or act of God rendering a use unusable for a period of time shall be considered discontinuance for purposes of this law. Any use or structure shall be considered to be in existence provided the same has been substantially commenced 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:

Accessory Use – Any use which is customarily accessory and clearly incidental and subordinate to the principle use or building and located on the same lot with such principal use or building.

Building – A structure wholly or partially enclosed with exterior walls and a roof, affording shelter to persons, animals, or property.

Dwelling – A building designed or used as living quarters for one or more families. The term dwelling shall include seasonal homes, modular homes, and mobile homes, provided that they meet all of the requirements of this law, the Town and/or State Building Code and all other regulations or laws applicable to dwellings.

Family – Means a person or persons related to each other by blood, marriage or adoption, (and/or not more than five (5) individuals not so related) living together as a single housekeeping unit. Adult homes and group homes for the developmentally disabled shall also be considered as families for the purpose of this definition.

Home Occupation – An occupation or other subordinate use of a nonresidential nature which is conducted within a dwelling unit, or building accessory thereto, which is clearly incidental and accessory or secondary to the use of the property for residential purposes.

Land Use Activity – Means any construction or other activity which changes the use or appearance of land or a structure of the intensity of the 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.

Planning Board – The Planning Board of the Town of Cherry Valley.

Shoreline – Means the mean high water mark or any Lake, Pond, River or Permanent Stream.

Sign – Any material, objects, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, announcement, direction, advertisement or any other similar message either free standing or printed on a building or structure.

Site Plan – A plan of a lot on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

Site Plan Enforcement Officer – An individual appointed by the Town Board and given the responsibility to oversee and enforce the provisions of the site plan law.

Site Plan Review and Approval – A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in the local law as authorized by Town Law.

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 principle structure, such as, a free standing garage for vehicles accessory to the principle 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 each single structure having a common wall, roof, 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 hereinafter shall carry its customary meaning unless the context otherwise dictates.

ARTICLE 3 – 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. Applications must comply with all other procedures and requirements for 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 and submission of

a formal site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

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

The Planning Board shall have the authority to waive any of the above requirements it deems are not necessary due to the size and scope of the project.

SECTION 3.030 – APPLICATION REQUIREMENTS:

An applicant 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 checklist. Where a 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; i.e. not all information may be required.

SITE PLAN CHECKLIST:

1. A site plan including: the title of drawing, the name and address of the applicant and person responsible for preparation of such drawing. Site plans shall be done by a landscape architect, engineer or a licensed land surveyor;
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale;
4. Name and address of all owners of record of abutting parcels and those within three hundred (300) feet of the property line. The applicant shall notify all such persons by certified mail, return receipt requested, of the proposed site plan;
5. Existing buildings;
6. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, watercourses, and storm water runoff plans.
7. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
8. Location, design, and type of construction of all parking and truck loading areas, showing access and egress;
9. Provisions for pedestrian access as required by the Americans with Disabilities Act;
10. Location of outdoor storage, if any;

11. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
12. The location, height, intensity and bulk type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. No lighting shall be allowed that proposes to light the boundaries beyond the property under review by the Planning Board; furthermore, no lights that project up into the sky and are visible in the distance will be permitted.
13. Description of the method of securing public water and location, design and construction materials of such facilities;
14. Description of the method of securing public water and location, design and construction materials of such facilities;
15. Location of fire and other emergency zones, including the location of fire hydrants;
16. Location, design and construction materials of all energy and utility distribution facilities, including electrical, gas and solar energy, telephone, cable TV, etc.;
17. The Planning Board may require soil logs, soil profile analysis (deep hole test), percolation test and storm water run-off calculations for large developments or developments in environmentally sensitive areas;
18. Plans to prevent the pollution of surface or groundwater and the erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable, shall be demonstrated. The Planning Board may require pre and post drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site. The use of ponds, dry wells, etc. may be used so that all sites have a zero increase in run-off so as not to disturb neighboring properties;
19. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
 - a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour's traffic level.
 - b. The projected traffic flow pattern including vehicular movement's at all major intersections likely to be affected by the proposed use of the site.
 - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
20. Location, size and design and type of construction of all proposed signs;
21. Location and proposed development of all buffer areas, including existing vegetative cover;
22. Location and design of outdoor lighting facilities;
23. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
24. General landscaping plan and planting schedule;

25. An estimated project construction schedule;
26. Record of application for and status of all necessary permits from other governmental bodies;
27. Identification of any permits from other governmental bodies required for the project's execution;
28. An Environmental Assessment Form (either short or long form, depending upon the nature of this site plan) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (NYCRR, 617), to identify the potential environmental, social and economic impacts of the project.
29. 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:

An application for site plan review shall be accompanied by a fee as established by the Town Board in its schedule of fees.

SECTION 3.050 – REIMBURSABLE COSTS:

Where necessary, cost incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The applicant shall agree in writing to pay the fees for hiring a consultant(s) prior to review of his site plan. Choice of consultant shall be at the discretion of the Planning Board and the Town Board. Full payment for said consultants shall be paid prior to final approval of the site plan. Failure to pay said expenses shall render the site plan incomplete and the Planning Board shall not be legally responsible for any further review of the site plan until the consultant's fees are paid.

Completed to date – June 1994

ARTICLE 4 – REVIEW STANDARDS

SECTION 4.010 – GENERAL STANDARDS AND CONSIDERATIONS:

The Planning Board's review of the site plan shall include, as appropriate, but in 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, overall pedestrian convenience and compliance with the new American with Disabilities Act (ADA).

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 where applicable.
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 CONSIDERATION:

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 run-off 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 paved or otherwise improve parking, loading or service area within one hundred (100) feet of any shoreline shall be designated and constructed so as to minimize surface run-off and the entrance of any chemical pollutants or earthen siltation into the waterway.
4. All requirements that the New York State Department of Environmental Conservation has regarding stream bed protection and waterway protection shall be followed by this local site plan law.

ARTICLE 5 – 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 sixty-two (62) 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 – REFERRAL TO THE COUNTY PLANNING BOARD:

Whenever any site plan involves property located within five hundred (500) feet of: a County or State road, County or State owned property on which a public building is situated, a city, village or town boundary, or an existing or proposed County or State Park or other recreation area, said site plan shall be referred to the County Planning Board. The County Planning Board shall report its recommendation to the Town Planning Board within thirty (30) days of its receipt. Failure of the County Planning Board to report within thirty (30) days may be construed to be approval. The Town Planning Board may override any recommendation of the County by a majority plus one vote.

SECTION 5.030 – PLANNING BOARD DECISION:

Within sixty-two (62) days of receipt of the application for site plan approval or if a public hearing is held within sixty-two (62) days following the close of the public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

1. **Approval** – Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall 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 the 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 cost 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 6 – 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 filing of a decision in the office of the Town Clerk.

ARTICLE 7 – MISCELLANEOUS PROVISIONS

SECTION 7.010 – ENFORCEMENT OFFICER:

The Town Board shall appoint a site plan enforcement officer to carry out the duties assigned by this local law. The site plan 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 – REGULATIONS BY THE PLANNING BOARD:

The Planning Board may, after a public hearing, adopt a set of rules and regulations as it deems reasonably necessary to carry out the provisions of this local law. Such rules and regulations should be a part of the Planning Board's by-laws, if such exist.

SECTION 7.030 – AMENDMENTS TO THE SITE PLAN LAW:

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 the 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 sixty (60) 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 a proposed site plan development involves review and compliance with another Local or State law, the Planning Board shall attempt to integrate the site plan review law with these other legal requirements.

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 (\$250.00) dollars per offense or by penalty or two hundred fifty (\$250.00) dollars per offense 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 violation and 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 provision adjudged invalid, and the rest of this local law shall remain valid and effective.