

# Town of Sharon Land Use Code\*

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# Zoning Law\*

**Prepared by:**

**Sharon Springs Joint Planning Board**

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and

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**MARCH 1, 2017**

**\*This Local Law will repeal and replace in its entirety the  
Town of Sharon Land Use Code/Zoning Law dated, September 2012.**



## Contents

ARTICLE I - ENACTMENT AND APPLICATION .....	3
Section 1 - Enactment .....	3
Section 2 - Title.....	3
Section 3 - Purpose .....	3
Section 4 - Scope .....	5
Section 5 - Definitions .....	5
ARTICLE II - ESTABLISHMENT OF DISTRICTS .....	6
Section 6 - Purpose .....	6
Section 7 - Districts.....	6
Section 8 – Zoning Schedule, Standard and Uses Requiring Special Permits .....	8
Section 9 - Planned Development Districts .....	9
Section 10 - Zoning Map .....	20
ARTICLE III - APPLICATION OF REGULATIONS .....	21
Section 11 - Interpretation of Zoning Map .....	21
Section 12 - Interpretation of Regulations .....	21
Section 13 - Additional Lot and Building Location Regulations .....	22
Section 14 - Accessory Buildings and Uses .....	23
Section 15 - Nonconforming Situations.....	26
ARTICLE IV - SUPPLEMENTARY REGULATIONS .....	28
Section 16 - Off-Street Parking.....	28
Section 17 - Signs .....	29
Section 18 - Site Improvements and Screening .....	31
Section 19 - Mobile Homes on Individual Lots.....	31
Section 20 –Supplemental Development Standards .....	32
A. Landscaping .....	32
B. Protection of Agriculture.....	32
C. Noise, Vibration, and Seismic Testing.....	33
D. Odors and Fumes .....	33
E. Lighting for Commercial Uses .....	33
F. Protection of Natural Resources, Water Supplies, and Aquifers.....	34
G. Standards for Individual Uses .....	36
1. Home Occupation. ....	36
2. Rural Service Shop, Use: .....	37
3. Roadside Stand : .....	37
4. Public/Semi-Public Structure, Use: .....	39
5. Public Utility or Service Structure, Use:.....	39
6. Eating, Drinking Establishment: .....	39
7. Gasoline Station, Service Garage: .....	40
8. Hotel, Motel, and Tourist Accommodation: .....	40
9. Commercial Excavation, Mineral Extraction, Small and Large Mines: .....	41
10. Junkyard:.....	46
11. Other Commercial Uses:.....	47
12. Family Care Facility: .....	47



13. Dwelling, Multi-family: .....	48
14. Efficiency Apartments: .....	49
15. Kennels: .....	50
16. Bed and Breakfasts: .....	50
17. Telecommunications Facilities: .....	51
18. Adult Use and Entertainment Establishments.....	56
19. Light Industrial Facilities.....	61
20. Retail Business.....	62
21. Airfield.....	64
22. Commercial Recreation .....	64
23. Golf Course.....	66
24. Solar Facilities .....	68
25. Wind Facilities.....	77
26. Horses on Public Roads and Streets.....	94
ARTICLE V –SPECIAL USE PERMITS and SITE PLAN REVIEW .....	95
Section 21 - Site Plan Review.....	95
Section 22 – Special Use Permits .....	103
ARTICLE VI – ADMINISTRATION AND ENFORCEMENT.....	107
Section 23 – Zoning Board of Appeals.....	107
Section 24 - Land Use Permit and Certificate of Compliance.....	110
Section 25 - Amendments.....	111
Section 26 - Enforcement; Violation; Appeal.....	112
Section 27 - Interpretation and Effectuation.....	114
ARTICLE VII DEFINITIONS .....	115
ATTACHMENT I ZONING SCHEDULE .....	140
ATTACHMENT II MAP.....	150
APPENDIX A - REQUIRED SUBMISSIONS.....	151
APPENDIX B – ENVIRONMENTAL ASSESSMENT .....	159

## **Town of Sharon Local Law #1 of 2017**

**Title: A Local Law enacting zoning amendments for the Town of Sharon Springs**

**Be it enacted by the Town of Sharon, Schoharie County, New York, as follows:**



## **ARTICLE I - ENACTMENT AND APPLICATION**

BE IT ENACTED by the Town Board of the Town of Sharon, Schoharie County, New York as follows:

### **Section 1 - Enactment**

This Local Law is adopted and enacted pursuant to the authority and power granted by Article IX of New York State Constitution, Articles 2 and 3 of the New York State Municipal Home Rule Law, and Article 2 of the New York State Statute of Local Governments.

### **Section 2 - Title**

This Local Law shall be known as, and may be cited as the "TOWN OF SHARON ZONING LAW".

### **Section 3 - Purpose**

- A. The purpose of this Zoning Law is to promote the health, safety, morals or the general welfare of the community and thus to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; to promote aesthetic values; and to encourage the most appropriate use of land throughout the Town. Further,
1. It is the purpose of this Local Law to protect the Town's natural and cultural environment. These include, but are not limited to streams and stream corridors, watersheds (especially Engleville Pond watershed and Class A tributaries), wetlands and hydric soils, floodplains, steep slopes, water bodies, critical/rare habitats, karst/limestone bedrock, active agricultural areas, prime agricultural soils, archaeological and historic locations, scenic roads, and groundwater resources.
  2. It is the purpose of this Local Law to uphold and implement the Town of Sharon Comprehensive Plan. The Town Board of the Town of Sharon, in adopting a comprehensive plan in 2009, and updating it in 2012, established town policy guiding future growth and development as follows:
    - a. Protect and maintain the rural character and small town atmosphere of the Town of Sharon while promoting appropriate economic development.
    - b. Improve pedestrian and traffic safety.

c. Protect the quality of surface and groundwater supplies, protect the integrity of mapped floodplains, preserve the integrity of unique physical environments and preserve wildlife habitats.

d. Secure safety from all hazards in Sharon.

These goals establish the intent of the Town to promote the safety, health, and well-being of the residents of Sharon, and to protect and enhance the Town's natural and visual environment. The Town recognizes that certain high intensity land uses could adversely impact wetlands, lakes, streams, groundwater resources, public drinking supplies, the physical health of its citizens, public roads, historic landscapes, agriculture, Sharon's small town character, and the area's tourism-based economy. The Town of Sharon seeks to avoid contaminated water supplies, air pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, and incompatible changes to the rural character of the Town.

Further, the Town Board, in adopting its comprehensive plan incorporated analysis of natural and cultural resources (Appendix E and F of the Updated Comprehensive Plan, 2012) which established that:

1. Most ecological and economic systems (such as provision of drinking water, recreation, wildlife habitats, and future economic growth of agriculture, tourism and small business) are all dependent on adequate sources and quality of water. In Sharon, groundwater aquifers are the source of drinking water for all residents outside the Village of Sharon Springs. Wetland ecosystems and streams (along with associated floodplains and stream corridors) are important habitats, and work to remove and recycle nutrients and sediments, filter impurities, and store water to reduce flood damage and feed groundwater aquifers. Land use in areas with limestone bedrock must be carefully planned due to surface risks to groundwater and subsidence of land. The Village of Sharon Springs depends on surface waters flowing to the Engleville Pond for drinking water.
2. Soils and topography play an important role in Sharon. Since agriculture is a significant land use and economic activity in the Town, soils that support profitable farming are critical to preserve. Protection of prime farmland soils is key to the long-term health of agriculture in Sharon. Topography and slope are a significant part of the landscape and thus important to defining the character of the Town.
3. Plants and animals play an important role in Sharon as part of the environmental quality of the Town and contribute to the character of the area. Forest ecosystems protect the quality and quantity of water supplies,

clean the air, create new soil, prevent erosion, and can moderate the climate. Biologic diversity offers citizens an attractive and desirable place to live and recreate. Residents highly value open spaces, wetlands and other important habitat areas and desire to have these important features remain.

4. Sharon residents highly value the community character of the Town. In addition to the physical natural resources, the visual community character is dominated by agricultural land activities along with the many historical and scenic resources throughout the Town.
3. Further, Town of Sharon has determined that heavy industrial activities and uses of land are in conflict with the Town of Sharon Comprehensive Plan and its land use policies and laws. Hence, it is the further purpose of this Local Law to prohibit those activities related to heavy industry which may adversely impact wetlands, lakes, streams, groundwater resources, public drinking supplies, the physical health of Sharon's citizens, public roads, historic landscapes, agriculture, rural and small town character, and the area's tourism and recreational-based economy. Impacts related to heavy industry that Sharon seeks to avoid include, but are not limited to contaminated water supplies, air pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, human and animal illness, and incompatible changes to the rural character of Town.

#### **Section 4 - Scope**

- A. This Local Law shall apply to the construction, installation or alteration of any building, structure or appurtenant system, any change in use, and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town of Sharon.

#### **Section 5 - Definitions**

- A. Terms and words used herein are as defined in Article VII of the Code which is hereby made a part of this Local Law.

## **ARTICLE II - ESTABLISHMENT OF DISTRICTS**

### **Section 6 - Purpose**

- A. In furtherance of those general purposes outlined above, it is the objective of this Local Law to define various appropriate categories of residential, commercial, agricultural and open space districts in such manner as to recognize the existing character and quality of land uses and natural features throughout the Town, and in accord with the Town Land Use Plan.

### **Section 7 - Districts**

- A. For these purposes, the Town of Sharon is divided into the following districts:

R	Residential District
R-H	Residential-Highway District
R-R	Residential-Rural District
R-A	Residential-Agricultural District
R-C	Rural-Center District
O-S	Open-Space District
F-H	Flood Hazard (Overlay) District

- B. Provision is also made for the creation of one or a combination of the following Planned Development Districts:

P-R	Planned Residential District
P-Rec	Planned Recreational District
P-C	Planned Commercial District
P-LI	Planned Light Industrial District

- C. Purpose of Districts:

R: To allow for one and two family dwellings, agriculture, and limited commercial uses in a denser development pattern adjacent to the Village of Sharon Springs in a manner that is consistent with the land use patterns in the Village.

R-H: To allow for a mix of lower density residential use and highway oriented commercial and light industrial use along some sections of Route 20.

R-R: To allow for a low density of one and two family dwellings, mobile homes, multifamily homes, agriculture, and certain commercial uses in a manner consistent with the rural environment north of Route 20.

R-A: To allow for a moderately low density of one and two family dwellings, mobile homes, farms, multifamily dwellings, and certain commercial uses in a manner consistent with the rural environment south of Route 20.

R-C: To allow for a mix of higher density residential use and certain commercial uses consistent with the hamlet character and environment of the hamlets of Leesville and Sharon.

O-S: To allow for a very low density of one and two family dwellings, seasonal dwellings, agriculture, forestry operations, and open space recreation uses in areas that are mostly forested and with environmental sensitivities such as steep slopes.

F-H: To protect persons and structures from flooding in flood hazard areas.

#### Planned Development Districts

P-R: The Planned Residential District is an unmapped “floating” zoning district that is established only upon approval of an applicant’s submission to the Town of Sharon Town Board. The purpose of this floating district is to allow for expansion of or establishment of new residential uses to be developed as a unit and in a manner that encourages flexibility and innovation in siting, design, and scale of structures to minimize environmental, aesthetic, cultural, or infrastructure impacts.

P-Rec: The Planned Recreational District is an unmapped “floating” zoning district that is established only upon approval of an applicant’s submission to the Town of Sharon Town Board. The purpose of this floating district is to allow for establishment of new recreational uses to be developed as a unit and in a manner that encourages flexibility and innovation in use but in a manner where siting, design, and scale and performance are consistent with and minimizes impact to environmental, aesthetic, cultural, or infrastructure resources.

P-C: The Planned Commercial District is an unmapped “floating” zoning district that is established only upon approval of an applicant’s submission to the Town of Sharon Town Board. The purpose of this floating district is to allow for establishment of new commercial uses to be developed as a unit and in a manner that encourages flexibility and innovation in siting, design, and scale of structures to minimize environmental, aesthetic, cultural, or infrastructure impacts.

P-LI: The Planned Light Industrial District is an unmapped “floating” zoning district that is established only upon approval of an applicant’s submission to the Town of Sharon Town Board. The purpose of this floating district is to allow for establishment of new light industrial uses to be developed as a unit and in a manner that encourages flexibility and innovation in use but in a manner where siting, design, and scale and performance are consistent with and minimizes impact to environmental, aesthetic, cultural, or infrastructure resources.

## **Section 8 – Zoning Schedule, Standard and Uses Requiring Special Permits**

- A. Permitted uses and uses requiring Special Permits in each of the above established districts, and a summary of the standards applicable thereto are set forth in Attachment I entitled "Zoning Schedule", which is hereby made a part of this Local Law.
- B. Prohibited Uses. The following uses are expressly prohibited:
1. Discharge, land application, or surface or underground disposal of hazardous material, toxic substance or radioactive material.
  2. Gas Compression Station
  3. Any land use or activity involving groundwater or surface water withdrawals in excess of 10,000 gallons per day
  4. Hazardous Waste Storage Facility except that hazardous materials stored for personal use on a property including, but not limited to fuel for heat, vehicles or machinery, pesticides for household and agricultural use, and other cleaners and solvents; hazardous materials stored and sold by a local company for local distribution including but not limited to gas stations, fuel oil dealers, hardware stores and farm supply establishments; and hazardous materials stored for use by local manufacturing or commercial companies including, but not limited to construction, restoring or remodeling companies, machine and repair shops, and foundaries are permitted
  5. Heavy Industrial Uses
  6. Injection Wells
  7. Manufacturing, recycling, processing or storage of hazardous waste
  8. Non-regulated Pipeline
  9. Open storage pits, except that where open lagoons for manure storage and other agricultural uses are permitted
  10. Pipeyards
  11. Parking, storage and staging areas for high frequency and high impact truck traffic
  12. Underground natural gas storage
  13. All uses not included in Attachment 1 (Zoning Schedule).

## Section 9 - Planned Development Districts

### A. Purpose:

1. The purpose of this provision is to provide a means of developing those land areas within the Town considered appropriate for new residential, recreational, commercial or industrial use - or a satisfactory combination of these uses - in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this Local Law.
2. In particular, this provision is designed to accommodate proposed planned unit development or clustering techniques not otherwise provided for and to provide for consideration of such special types of uses as mobile home courts.
3. The Planned Development District procedure is not intended for the conventional development of a single parcel in an isolated manner unrelated to the Town Plan or in contravention to this Local Law. The Planned Development District is designed to accommodate such large scale uses as will be of benefit to the community but which could not have been anticipated at the time of adoption of the Local Law. The Planned Development District procedure shall not be used in instances where conventional Subdivision Regulations or Special Permits would apply.
4. A Planned Development District shall be treated as an amendment to this Land Use Code. Any proposed District shall be at least twice the size required for a single building lot in the District from which the new Planned Development District is being created.
5. There shall be a maximum of 70% of lot coverage, a maximum building height of 45 feet and all structures shall be located at least 100' from any property boundary line.
6. Permitted Uses. The Town Board shall determine which uses shall be allowed in any planned development district except that no heavy industrial use is allowed within any planned development district.

### B. Procedure:

1. For establishment of a Planned Development District:
  - a. Any applicant wishing approval for a Planned Development District shall submit this request to the Town Board in the form of a Preliminary Proposal. The applicant shall furnish that data called for under Preliminary Plat/Plan in Appendix A of this Code which is hereby made a part of these this Local Law. Application for designation of a Planned Development District shall be

referred to the Planning Board within ten (10) days of its receipt by the Town Board for an advisory opinion and recommendation. The report from the Planning Board shall include a recommendation to the Town Board as to whether the proposed planned development district should be granted, denied, or granted with conditions.

- b. In addition, a written explanation of the character and purpose of the Planned Development including the type and density of any housing proposed, open space to be provided, the water and sewage disposal system proposed, a general statement of proposed financing, and an indication of the expected timetable of development shall be submitted.
2. Developer's Conference -
- a. Within sixty-two (62) days after receipt of the Preliminary Proposal from the Town Board, the Planning Board shall schedule a conference with the applicant to review the Proposed Planned Development. If said proposal seems to be in accordance with overall planning objectives for the area, the Planning Board and the applicant shall jointly consider the conditions and specifications under which the proposal will be approved. After such conference, if the applicant wishes to proceed with the Planned Development, he shall submit to the Planning Board a written statement of intent to comply with the conditions and specifications as established.
  - b. The Planning Board may require such changes in the Preliminary Plan as are found to be necessary to meet the requirements of this Section, to protect the established permitted uses in the vicinity and to promote the orderly growth and sound development of the Town. In considering the proposal and in reaching its decisions regarding the preliminary plans, the Planning Board shall consider and make findings regarding those considerations set forth under paragraph 3-c of this subsection.
  - c. If agreement on conditions cannot be reached, the Planning Board may, at that time, recommend to the Town Board that the proposal not be approved. Such recommendation shall include a detailed explanation of the basis for the Planning Board's decision.
  - d. The Planning Board shall report its findings and make its recommendation to the Town Board within sixty-two (62) days after the final developer's conference with the Planning Board has been completed. It may recommend approval, disapproval, or conditional approval subject to modifications regarding the proposed development.
  - e. The Town Board shall hold a public hearing after public notice as required for any amendment to this Local Law and shall consider the report and recommendations of the Planning Board, and all other comments, reviews and

statements pertaining thereto. The Town Board, within sixty two (62) days of the close of the public hearing and upon completion of the SEQRA findings, shall make its decision to approve, disapprove, or approve with conditions, the PD zoning change.

- f. All requirements of NYS ECL 617 (SEQRA ) shall be met prior to decision on any Planned Development District by the Town Board.
  - g. All referrals pursuant to Section 21 (E) of this Local Law shall be met.
  - h. Any time frame within this process as established above may be extended upon mutual agreement of the Town Board and the applicant.
3. Disapproval

The Town Board, in its sole discretion, may reject any request for a PD at any time during the petition review process. If the Town Board disapproves the PD, the Town Board shall make a written statement of findings of fact and conclusions. Those findings and conclusions shall set forth the reasons for the Board's decision not to approve the application and shall include in that decision an explanation as to why the proposed development would not be in the public interest. Upon disapproval of the PD zoning change, the Town Board shall, within five (5) business days, file the statement with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Town Board's reasons for disapproval.

4. Approval and Criteria

For the approval of development within an established Planned Development District:

- a. Amendment of the Zoning Map shall not constitute authorization to develop in the district.
- b. Such authorization, after a Planned Development District has been established shall require that the applicant submit to the Planning Board such further plans and specifications, supporting documents and data as are required under Final Plat/Plan in Appendix A of the Code.
- c. If the Town Board determines to approve, or approve with conditions, the PD request, the Town Board shall, as part of its approval decision, explain in writing, and with specificity, in writing set forth the particular ways in which the proposed development would be in the public interest, including, but not limited to, findings of fact and conclusions which shall address the following. The Town Board may attach any conditions required to ensure that the PD is consistent with the Comprehensive Plan and the intent of this Local Law. (Any costs incurred for legal, planning or other professional review of a Planned Development District shall be paid by the applicant.)

1. State the criteria used for decision making and state its finding as to what extent the proposed PD meets these criteria and to what extent it benefits the Town of Sharon and the need for the proposed project. In order to grant approval of a PD, the Town Board must make the following findings:
  - a. That the site is adequate in size to support the proposed quantity of development.
  - b. That the site is suitable in terms of topography, soils and other physical attributes and location for the proposed use(s).
  - c. That the proposed method of sewage disposal, provision of water and provision of surface water drainage are adequate in accordance with the County and/or New York State Department of Health standards.
  - d. That utilities and public services are adequate to serve the needs of the proposed uses.
  - e. That the impacts on the ground water supply level and other natural resources, including critical habitats, are within acceptable levels and that the project does not disrupt scenic vistas, historic or archaeologically sensitive areas, or other important cultural areas to a significant degree.
  - f. That the proposed PD encourages the conservation and enhancement of the rural character of undeveloped areas by protecting open space, farmland, and natural resources, and minimizes flooding and erosion by protecting the functions of wetlands, water bodies, water courses, floodplains, areas of high water table, steep slopes, and natural vegetative cover.
  - g. That the proposed uses within the PD are compatible with one another and with adjacent uses, including agriculture.
  - h. That the project's impact on traffic flow on surrounding roads and intersections does not reduce levels of service below the current service level.
  - i. That the project's visual, noise, light, and other impacts on neighborhood character are acceptable compared to the benefits of the project.
  - j. That the proposed plan will not have adverse effects which overbalance its beneficial effects on either the neighborhood, nearby agricultural uses, or the Town.

2. Shall determine the number, type, scale, size, and intensity or other bulk dimensions of uses which shall be allowed in the PD.
3. Shall identify which uses shall require special use permits.
4. Shall establish such other conditions and requirements which the Applicant must adhere to in the development of the PD. This may include but it is not limited to building(s) placement, architectural character, scale of buildings, pedestrian facilities including hiking or bike trails, streetscape and landscaping standards, lighting and signage requirements.
5. Identify and explain the extent to which the plan departs from zoning regulations formerly applicable to the property in question, including but not limited to bulk, density and permitted uses and its relationship to the Town Land Use Plan.
6. Identify the existing character of the neighborhood and explain the relationship of the proposed development to this neighborhood, including how the proposed planned development will benefit the existing neighborhood's character.
7. Identify the location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
8. Explain how the proposed planned development will make sufficient provision for pedestrian circulation and open space, the reliability of the proposal for maintenance, the conservation of common open space, and for pedestrian circulation as related to the proposed density and type of development.
9. Explain how the proposed planned development provides for the recognition and satisfactory accommodation of important natural and physical limitations and opportunities of the site.
10. Explain how the proposed planned development provides for traffic circulation features within the site including, the amount of, location of, and access to automobile parking and service areas.
11. Discuss the amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards such as inadequate site distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.

12. Explain how the proposed planned development provides for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site.
  13. Identify the proposed location, type and size of signs and landscape features.
  14. Explain the physical design of the plan and the manner in which said design does or does not make adequate provision for service demands including water, sewage and fire protection.
- d. No Permit shall be issued until the Planning Board has made its recommendation based on the foregoing considerations and the Town Board has considered this recommendation and authorized issuance of Permit by resolution. The Town Board may override the recommendation of the Planning Board in adopting its resolution to authorize or deny a Permit only by an affirmative vote of a majority of the Town Board.
  - e. All conditions imposed by the Town Board in its amendment and all subsequent conditions imposed by the Planning Board or Town Board in their review of the final plans, including the posting of any performance bond as provided for in Appendix A of this Code or any other conditions stipulated precedent to the issuance of any Permit, shall continue in force and effect as it applies to the approved project and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.
  - f. If construction of the development in accordance with the approved plans and specifications has not begun within one (1) year after the date of the resolution authorizing issuance of the Permit, all permits shall be come null and void, and the approval shall be deemed revoked and vacated.

C. Special Applicability for Mobile Home Courts and Recreational Campgrounds:

1. All proposed mobile home courts and recreational campgrounds shall be allowed only as Planned Residential or Planned Recreational Districts subject to approval pursuant to the Planned Development District review process as set forth above, and in addition, provided proposed projects are determined to comply with the following provisions.
2. In addition to the provisions and appropriate considerations detailed under the Planned District process, the following standards shall apply for Mobile Home Courts:

- a. Streets: Existing and proposed streets within the Mobile Home Court shall be suitable and adequate to carry anticipated traffic within the proposed development and in the vicinity of the proposed districts.
- b. Utilities: Existing and proposed utility services shall be adequate for the proposed development and such utility services shall be placed underground.
- c. Highway Frontage: A Mobile Home Court shall have frontage on, and direct access to, a Town road, New York State or Schoharie County Highway.
- d. All Mobile Home Courts shall receive Special Use Permit approval from the Planning Board prior to construction and operation. Application for a Mobile Home Court shall be accompanied by the required sets of plans prepared by a licensed Landscape Architect, Architect, Engineer, or Land Surveyor, shall be filed with the Town Clerk, and shall include the following:
  1. The name and address of the applicant.
  2. The location and deed of the Mobile Home Court site.
  3. Plans and specifications of all improvements and facilities constructed or to be constructed within the Mobile Home Court.
  4. Such further information as may be requested by the Town Board or Planning Board to enable a proper determination if the proposed Mobile Home Court will comply with all legal requirements.
- e. Mobile Home Court standards.
  1. Site Development.
    - a. Site Size. Mobile Home Courts shall be located on well drained sites comprising a minimum of ten (10) acres and a maximum of thirty (30) acres;
    - b. Grading. The site shall be properly graded to ensure rapid drainage so that no portion of the site is subject to flooding or erosion;
    - c. Minimum Frontage. Where no secondary access is provided, the site shall have a minimum of three hundred (300) feet of frontage on the highway providing primary access to the site.

2. Density/Lot Standards.

a. Lot Density/Lot Setbacks. Each Mobile Home Court shall be designed to accommodate separately identified manufactured home lots as follows:

**Minimum Lot Area**

Single wide unit.....	7260 square feet (sf)
Double wide unit.....	9700 sf
Maximum # Units/Gross Acre...	4
Minimum Setback from Public Highway Right-of-Way Line.....	100 feet (ft)
Minimum Unit Separation.....	50 ft
Minimum Manufactured Home Lot Width.....	70 ft

b. Homes within a Mobile Home Court shall be installed in the Town of Sharon in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code Act.

c. Individual Lot Access. All designated lots within a Mobile Home Court shall have direct access to streets designed to Town of Sharon specifications.

d. Required Parking. Two (2) off-street parking spaces shall be provided for each motor home, with one (1) additional space for each four (4) manufactured homes. Every parking space shall be at least ten (10) feet in width and twenty (20) feet in length, and have adequate provision for maneuvering and for passage to and from streets.

e. Required Mobile Home Court Caretaker. Each Mobile Home Court Licensee shall have a duly authorized attendant or caretaker on-site at all times who shall keep the Mobile Home Court, its facilities and its equipment clean, orderly, and in a sanitary condition at all times.

f. Unit Expansion. Any unit, whether it is a single-wide or double-wide unit, may be expanded, however:

1. Any expansion must maintain the required separation distance between units;
2. Any single-wide unit proposed for expansion shall have a minimum lot area equal to that of a double-wide unit as specified in this Local Law.

g. Open Space/Landscape Plantings. All areas of the site except wetland buffers, stream corridors, steep slopes, or other natural undisturbed areas not occupied by buildings,

units, parking areas, driveways or walkways shall be maintained as lawn area with landscape plantings of trees and shrubs, or as natural areas as follows:

1. All margins along the front, side and rear property lines of the Mobile Home Court site shall be planted with evergreen or deciduous trees in a mass planting or hedgerow, for the purpose of visual screening and noise abatement. Such plantings shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade, and suitable settings for the manufactured home and other facilities as approved by the Town of Sharon.
  2. The design of individual sites shall take into consideration the natural growth presently on the site and the nature and condition of the terrain as well as the relationship of the site itself with respect to adjoining lands. Screening and/or landscape plantings for such individual sites shall be provided as deemed necessary by the Town of Sharon Planning Board.
- h. Utilities. Each individual manufactured home unit shall be served by central water supply facilities and wastewater treatment facilities as approved by the New York State Department of Health.
1. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all manufactured home lots and buildings within the Mobile Home Court.
  2. Each manufactured home lot shall be connected to an on-site sewer plant, which shall connect to the manufactured home situated on the lot to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in the home. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects and secure from tampering or opening by children or animals;
  3. Plumbing connections to each manufactured home shall comply with all regulations of the New York State Plumbing Code;
  4. Weatherproof electrical service connections and outlets shall be of a type approved by the New York State Board of Fire Underwriters;
- i. Required Storage Space. Storage space for the use of Mobile Home Court residents shall be provided within a fully enclosed building in an amount equal to at least eighty (80) cubic feet for each manufactured home lot in the Park.
- j. Required Recreation Area. A recreation area shall be incorporated into the design of the Mobile Home Court to be a minimum of five hundred (500)

square feet per manufactured home unit with appropriate facilities to satisfy the needs of the Park residents.

3. Recreation Areas.

The Town of Sharon Planning Board shall also have the authority to require certain recreation or community service facilities at the location of any proposed Mobile Home Court. These include, but are not limited to, laundry facilities, public telephone, recreational facilities, parks, open spaces, playgrounds, meeting room and rest rooms. The Planning Board may find that due to size, topography or location of the Mobile Home Court, land for parks, open spaces, playground or other recreational purposes cannot be properly located on the property, or that those amenities are not desirable. In that case, prior to approval and filing of the proposed plan, the Planning Board shall require that a payment in an amount equal to one hundred dollars (\$100) per manufactured home lot within the proposed Park shall be made by the applicant to the Town of Sharon and added to Town recreation funds pursuant to Section 277 of the New York State Town Law. Such amount shall be paid to the Town of Sharon at the time that final approval of the plan is made and no such plan shall be finally approved nor filed until such payment has been made.

4. Pedestrian Facilities. Pedestrian ways shall form a logical, safe, and convenient system of pedestrian access to all project facilities.
5. Snow Removal. The owner of the Mobile Home Court shall be responsible for snow removal from the Mobile Home Court to the public highway. The owner shall be required to accomplish snow removal promptly so as to ensure the safety of the residents and access for emergency vehicles.
6. Site Lighting. All street or internal lighting shall use full cut off or shielded light fixtures to reduce glare.
7. Fire Protection. A Mobile Home Court shall be provided with suitable and operable fire extinguishers and other fire alarm and protection devices as may be prescribed by the fire district where the Mobile Home Court is located. There shall be clear numbering of manufactured homes within the Mobile Home Court with a layout map provided to the fire and disaster coordinator and to ambulance and police agencies. The local fire department and ambulance service shall review and approve access plans for the Mobile Home Court to ensure adequate safety and emergency response.
8. Reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of an application to establish a Mobile Home Court shall be charged to the applicant. Such reimbursable costs shall be in addition to any fee as set by the Town Board.

9. In addition to the provisions and appropriate considerations detailed under the Planned District process, the following standards shall apply for Recreational Campgrounds:
  - a. The minimum lot area shall be twenty (20) acres.
  - b. No building, tent, activity, parking area, or recreation facility shall be located closer than one hundred (100) feet from any lot line and said activities shall be effectively screened as required by the Planning Board to minimize noise and visual impact to the greatest extent practicable on adjacent properties. No two buildings intended for use as sleeping quarters shall be closer than thirty (30) feet from each other. Tents shall maintain a separation distance to other tents of no less than ten (10) feet.
  - c. Noise. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties and that ambient noise levels will be maintained. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. Public address systems are prohibited in outdoor recreation areas, but shall be allowed for indoor recreation areas.
  - d. Sanitary and wastewater disposal systems shall be approved by the New York State Department of Health. Flush toilets shall be provided.
  - e. Centralized solid waste receptacles shall be provided. Waste in these receptacles shall be collected regularly to avoid odor, health hazards and litter.
  - f. Adequate emergency access shall be provided throughout the camp site. The Planning Board, in consultation with the applicable fire district, shall ensure that suitable surfaces are provided for internal driveways to ensure emergency equipment can access all occupied areas the site.
  - g. No permanent dwellings shall be permitted except for two (2) dwellings to be used by the owner or resident manager of the camp.
  - h. Accessory structures including, but not limited to, laundry rooms, recreation rooms, restaurant, and a general grocery store serving only on-site guest amenities that are ancillary to the operation of the campground are permitted.
  - i. There shall be no discharge of firearms on-site.
  - j. Recreational campgrounds shall be operational only between April 15 and October 30.

## **Section 10 - Zoning Map**

- A. The above established districts are delineated on a Zoning Map entitled "Zoning Map Town of Sharon, N.Y." included herein as Attachment II, which map, with all amendments thereto, is hereby made a part of this Local Law.

## **ARTICLE III - APPLICATION OF REGULATIONS**

### **Section 11 - Interpretation of Zoning Map**

- A. The following rules shall apply to determine the boundaries of the districts shown on the Zoning Map.
1. Whenever district boundaries follow street or highways, the center line of such streets and highways shall be considered the district boundaries. Whenever district boundaries on the Zoning Map follow natural features such as streams or waterways, the center of such natural features shall be considered to be the district boundaries.
  2. Whenever district boundaries are so indicated that they apparently follow individual lot lines or field, tree and fence lines as interpreted from aerial photography, such lines of demarcation shall be considered the district boundaries.
  3. Where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a dimension expressing its distance in feet from the road center line or other boundary line as indicated; or by use of the scale appearing on the Zoning Map.
  4. Where a district boundary line divides a lot in single ownership on the effective date of this Local Law, the standards for the less restricted portion of such lot shall extend not more than one hundred (100) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
  5. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Board of Appeals, upon application, shall render a determination with respect thereto.

### **Section 12 - Interpretation of Regulations**

- A. Regulations governing minimum lot area and lot width; required front, side and rear yards; and maximum building coverage and building height are specified in Attachment I, subject to such additional standards as may be set forth in the this Local Law.
- B. Except as otherwise provided in this Local Law:
1. No building shall be erected, constructed, reconstructed or altered, and no land or building, or part thereof, shall be used for any purpose or in any manner except as permitted for the district in which such building or land is located as set forth

under the list of permitted Standard uses and uses requiring Special Permit in Attachment I of this Local Law.

2. No existing lot of record on the effective date of this Local Law shall be reduced, subdivided or otherwise reduced in size or changed in configuration so as to make it nonconforming under this Local Law.
3. No building shall be erected, reconstructed or altered nor shall any open space surrounding any building be encroached upon or reduced in any way, except in accordance with the yard, lot area and building location regulations of this Local Law for the district in which such building is, or is proposed to be, located; or where such open space or land is located.
4. No yard or other open space surrounding any building located in conformance with this Local Law shall be considered as providing the requisite yard or open-space area for another building. Likewise no yard or open space on one lot shall be considered as providing a yard or required open space for a separate principal or accessory building on any other lot.
5. The regulations listed for each district are hereby adopted and prescribed for such district, subject to the provisions of other applicable Sections of this Local Law, and unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

### **Section 13 - Additional Lot and Building Location Regulations**

- A. No more than one principal structure on any lot, other than as may be approved under the Planned Development District provisions, shall be permitted.
- B. On a corner lot in any district where a front yard is required, a yard shall be provided on each roadway equal in depth to the required front yard on each such road. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a Permit.
- C. Where a single lot under individual ownership extends from one roadway to a parallel or nearly parallel roadway, the principal structure shall be erected to face the roadway on which those adjoining structures face.
- D. On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained which obstructs visibility from the roadway or interferes with the safe movement of vehicular traffic.
- E. When a vacant lot in any district is situated between two improved lots, the front yard of the vacant lot shall have a minimum depth equal to the average depth of the front

yards of the two adjoining improved lots, but not less than twenty-five (25) feet from the road right of way or fifty (50) feet from road center line, whichever is greater.

- F. The space in any required yard shall be open and free from any building except for accessory buildings in a side or rear yard and except for the ordinary projections of window sills, eaves and other architectural features, provided, however, that such features shall not project more than two (2) feet into any required yard.
- G. No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except that the height limitations of this Local Law shall not apply to barns, silos, church spires, chimneys, water tanks and necessary heating or air conditioning appurtenances usually carried above the roof level; nor to flag poles, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.
- H. Residential fences shall be no closer than twenty four inches from the property line.
- I. Alternate Front Setback in All Districts Except Open Space. As an alternative to the standard front setback established in the District Tables, and in order to promote the character of the streetscape and continuation of existing building setbacks, the front setback for one and two family residences may be either the dimension given in the District Tables, or may be equal to or within 10 feet of of the average setback of adjacent structures. In no case shall the front setback in any district be less than 25 feet. No Planning Board review or variance from the ZBA shall be required if the setback meets these parameters.

#### **Section 14 - Accessory Buildings and Uses**

- A. On any lot accessory buildings(s) or use(s) in connection with the principal structure and use may be constructing and located subject to the following:
  - 1. All accessory buildings or uses shall require a Permit to be issued prior to their initiation as elsewhere required in this Local Law.
    - a. An accessory building for a residential uses shall not be constructed or used on a lot until construction of the principal structure is completed unless the principal residential structure is being constructed on the same lot.
    - b. Accessory buildings for storage may be established on a vacant lot provided all lot size and setbacks for principal structures are met.
    - c. Accessory buildings shall not be used for dwelling purposes except where permitted as an accessory dwelling, or when the accessory structure is to be

used temporarily for residential purposes during construction of the principal structure.

- d. In a New York State Agricultural District, an accessory building may be constructed on a lot used for agricultural purposes and such structure shall only be used as a barn for animals, crop storage, processing or produce grown on premises, or equipment shed in support of that farming operation. No accessory structure in a New York State Agricultural District shall be used for farm worker housing (defined pursuant to NYS AML 305-a) on such farmed parcel unless all lot sizes and setbacks as required in this zoning law are met and that all requirements to meet local building codes or the State Uniform Fire Prevention and Building Code ("Uniform Code") [unless exempt from the Uniform Code under Building Code §101.2(2) and Fire Code §102.1(5)] and Health Department requirements for potable water and sewage disposal are met. Farm worker housing shall meet all requirements for local building permits and certificates of occupancy to ensure health and safety requirements. Structures used for primary residence of the owner or partner of the farm shall be considered a single-family dwellings and shall meet all lot size, setback, density, and other requirements of the Town of Sharon.
2. No more than two (2) accessory buildings or uses in addition to a private garage in conjunction with a residence, including such things as a home workshop, tool shed, wood shed and like buildings and uses shall be permitted on any residential lot. The total area encompassed by such accessory building(s) and use(s) shall not exceed that maximum percent of total lot coverage as identified according to the respective zoning district in Attachment I - Zoning Schedule. No such limitation shall apply to farm or commercial uses, except that permitted accessory buildings and uses may be determined by the Planning Board in accord with their review of any proposed Planned Development District or any use required a Special Permit.
  3. Accessory Buildings to a residential use which are not attached to a principal building may be erected in accordance with the following requirements:
    - a. Rear or side yard - at least twenty (20) feet from side or rear property line.
    - b. Side yard, street side of corner lot - same as for principal building.
    - c. No closer to a principal of other accessory building than twenty (20) feet.
  4. An accessory building attached to a principal residential building or an accessory building to other than a residential use, whether attached to the principal structure or not, shall comply in all respects with the requirements of this Local Law applicable to the principal building.
  5. No accessory building or enclosure shall be constructed or located to house livestock, other than a domestic household pet, on any lot less than three (3) acres

in size. Front, side and rear yard setbacks for any such building or enclosure designed to house livestock shall be a minimum of one hundred (100) feet from the side and rear lot lines.

6. Maximum height of any accessory building shall be one and one-half (1 1/2) stories or twenty (20) feet, whichever is less; except that it shall not exceed the height of the principal building. This height limitation does not apply to farm structures.
7. A private, outdoor swimming pool shall be permitted as an accessory use to a dwelling unit only in accordance with the following regulations:
  - a. Such pool shall be accessory to a principal residential use and shall be erected only on the same lot as the principal structure.
  - b. Such pool may be erected or constructed only in the side or rear yard of the lot, shall conform with the minimum side and rear yard requirements of the principal building for the district in which it is located and shall not be less than fifteen (15) feet distant from any principal or accessory structure.
  - c. Such pool shall be adequately fenced according to the New York State Uniform Fire Prevention Building Code in order to assure that it will be used only by those persons having approved entrance to the pool.
  - d. Such pool shall be adequately screened or otherwise situated so as not to be visible from the public right of way or to present a nuisance to any adjoining use.
  - e. Such pool shall not adversely affect the character of any residential neighborhood and all lighting or other appurtenances shall be so arranged as not to interfere with neighboring uses.

In addition, a swimming pool to be constructed or installed as an accessory use to a motel, tourist or like accommodation or as part of any commercial or club facility shall be permitted after application to, and authorization of a Permit therefor by, the Code Enforcement Officer. Such swimming pool shall be so located as not to cause a hazard or nuisance and shall be designed and located in accord with acceptable engineering standards and any applicable County or State requirements.

8. One (1) mobile home shall be permitted as an accessory use to a farm where the location of the mobile home is in conjunction with a commercial, operating farm and for the sole purpose of providing residential quarters for a full-time employee, and the employees family, of the farm. In considering an application for a mobile home to be located as an accessory dwelling to an operating farm, the Code Enforcement Officer shall determine that:

- a. The location, including front, side and rear yards are as otherwise required for a principal residential use in the district as regards the parcel on which the mobile home is located and relative to any principal or accessory building.
  - b. The provisions for all sanitary facilities are adequate.
  - c. Proper assurances are provided, including a performance bond where deemed necessary, for the removal of any mobile home no longer used for occupancy by a full-time employee of such operating farm.
  - d. All other provisions relating to mobile homes under this Local Law are met.
9. A building, mobile home, trailer or other structure, accessory to a construction project for office, storage or related construction use may be permitted upon issuance of a Permit by the Code Enforcement Officer, such installation to be temporary and continued only for the duration of the construction project to which it is accessory.

Such Permit will be issued only in conjunction with the construction of an approved use for which a Permit has also been issued and a Certificate of Compliance applied for. Such temporary facility shall not be designed or used for living accommodations except for the nonpermanent accommodation of a clerk-of-the-works or night watchman, and shall be promptly removed upon completion of the construction project or part thereof to which it is accessory, such date to be determined by the Code Enforcement Officer. Upon notice from the Code Enforcement Officer, the Permit shall expire and the rights and privileges thereunder shall be vacated. Failure to remove such installation in a prompt manner after notice by the Code Enforcement Officer shall be considered a violation of this Local Law.

## **Section 15 - Nonconforming Situations**

- A. A permitted building or use may be constructed or located on any lot of record in any district even if said lot is less than the minimum area required for said use in the district in which it is located, providing the following conditions exist or are met:
1. The owner of said lot owns no adjoining vacant land which would create a conforming lot if combined with the lot which is deficient in area; and
  2. Any structure erected or use located on a nonconforming lot shall have front, side and rear yards conforming to the minimums required for the district in which said lot is located, except as may be otherwise approved by the Zoning Board of Appeals as elsewhere provided for and according to the variance procedures under this Local Law.

- B. The lawful use of any land or principal or appurtenant structure or use requiring a Permit under this Local Law and existing on the effective date of this Local Law may be continued although such use or structure does not conform with the provisions of this Local Law and any such use or structure may be reconstructed, altered or changed in use subject to the following:
1. A nonconforming building or use shall not be added to or enlarged in any way that will extend the nonconforming features unless such nonconforming building or use is made to conform to the regulations of the district in which it is located.
  2. A nonconforming use may be changed to another nonconforming use only upon a determination by the Zoning Board of Appeals, as elsewhere provided for and according to the variance procedures under this Local Law, that such change represents an improvement to the existing use and its relationship to adjoining uses.
  3. A nonconforming structure or use, once removed, shall not be reintroduced or replaced other than by a conforming structure or use.
  4. Whenever a nonconforming use has been discontinued for a period of one (1) year, any future use shall be in conformity to the provisions of this Local Law.
  5. A nonconforming structure or use which has been damaged by fire or other natural causes may be restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as a legal nonconforming use thereafter shall be terminated.
  6. Any building or use which has been conclusively initiated or for which a Permit has been lawfully granted, and on which construction has been started and diligently prosecuted before the effective date of this Local Law or its amendment may be completed.
  7. Nothing in the foregoing shall be interpreted to preclude the substitution of a replacement mobile home for an existing mobile home of record nonconforming as to use on the effective date of this Local Law, provided that all other applicable provisions of this Local Law are complied with; and further provided that such replacement is accomplished within one (1) year from the date of removal of the existing mobile home of record.

## **ARTICLE IV - SUPPLEMENTARY REGULATIONS**

### **Section 16 - Off-Street Parking**

- A. Off-street Parking space shall be required for all principal buildings constructed or substantially altered after the effective date hereof. Each off-street space shall consist of at least one hundred eighty (180) square feet. In addition, space necessary for aisles, maneuvering and drives shall be provided and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.
- B. Parking requirements shall be provided on the basis of two (2) spaces per each dwelling unit and two (2) spaces for each 200 square feet of retail, office, sales or display area in any business or commercial use unless otherwise stipulated. For uses not specified or not of the nature or type generally described here, the Planning Board shall recommend to the Town Board parking requirements in specific cases consistent with the guidelines provided herein. The required provisions for parking may be provided by the Town or in combination with adjacent uses in a manner deemed appropriate by the Town Board after application, consideration and recommendation by the Planning Board.
- C. The required parking space in residential districts shall be for resident parking only and shall not be located in any required front yard. This shall not prohibit arranging for, by lease or other arrangement, required parking space for one automobile of a non-resident of the premises.
- D. No more than one unlicensed, unregistered motor vehicle shall be parked or stored out-of-doors or other than in a fully-enclosed structure in any district for a period not to exceed sixty-two (62) days.
- E. No recreational vehicle or living unit, boat, or other utility or service vehicle or equipment shall be stored in any required front yard or within ten (10) feet of any lot line.
- F. Off-Street parking for gasoline stations and service garages shall be limited to employee and customer cars which are licensed and in running condition and shall not be used for repair or sale of new or used cars or parts therefrom.
- G. For any building having more than one use, parking space shall be required for each use. For the purposes of computing parking requirements, floor areas shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding the basement, cellar and attic areas.
- H. Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 1,500 square feet and shall be so arranged as not to interfere with pedestrian

or motor traffic on the public street or highway. Any required off-street loading berth shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length.

- I. An off-street loading space may occupy any part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any residential district unless wholly within a completely enclosed area or within a building.

## **Section 17 - Signs**

A. General Regulations - The following regulations shall apply to all signs.

1. No new or additional sign shall be created by erecting, installing, painting, upon; or be otherwise established, without a Permit therefore.
2. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
3. Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street or highway, nor project beyond the authorized property lines, except where no other provision is possible in which case the Zoning Board of Appeals, in accordance with the variance procedures elsewhere provided for in this Local Law, shall make a determination relative thereto.
4. All temporary signs erected for a special event or property sale, rental or repair shall be removed by the property owner or his agent when the circumstances leading to their erection no longer apply.
5. No sign shall physically or visually impair vehicular or pedestrian traffic by design, illumination, color or placement. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway and, if illuminated, the light shall not be directed toward any public highway or adjacent residential use. In addition, no flashing or intermittently lighted sign shall be permitted.
6. Any business or advertising sign hereafter erected shall not project into a public street right-of-way and shall not be closer than ten (10) feet to any lot line.

B. In all districts, the following signs are permitted:

1. One nameplate, identification or professional sign not to exceed four (4) square feet of sign area, showing the name and address of the resident or other permitted activity associated with the premises.

2. One non-illuminated sale or rental sign not to exceed eight (8) square feet of sign area during and pertaining to the sale, lease or rental of the land or building. Such sign shall be of a temporary nature.
  3. One artisan's sign not to exceed eight (8) square feet of sign area during and pertaining to construction, repairs or alterations on the property. Such signs shall be removed promptly upon completion of the work.
  4. One institutional or religious identification sign not to exceed sixteen (16) square feet in area.
  5. A sign advertising the sale or development of a tract of land may be erected upon the tract by the developer, builder, contractor or owner. The size of the sign shall not exceed sixteen (16) square feet and not more than two (2) signs shall be placed upon the tract along any highway frontage. Such sign must be at least fifty (50) feet from the road or highway right-of-way line.
  6. One principal and one accessory business sign for any existing or permitted commercial use provided that the gross surface area of the principal business sign shall not exceed two (2) square feet per lineal foot of building frontage, but in no case shall exceed twenty-four (24) square feet, and the accessory business sign shall not exceed fifty (50) percent of the area of the principal sign.
- C. In R-H and C-I districts the applicable signs above are permitted, and in addition, the following:
1. One (1) principal and one (1) accessory business sign for any existing or permitted commercial use provided that the gross surface area of the principal business sign shall not exceed two (2) square feet per lineal foot of building frontage, but in no case shall exceed forty-eight (48) square feet, and the accessory business sign shall not exceed fifty (50) percent of the area of the principal sign.
  2. No sign attached or unattached shall be higher than the principal building to which it is accessory.
  3. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway.
- D. In any R-H, R-R, or R-A district an advertising sign shall be permitted, provided the gross surface area of such sign shall not exceed sixty (60) square feet and further provided that no such sign will be located within fifty (50) feet from the edge of the pavement of the nearest roadway, within one hundred (100) feet from any residence, or within two hundred (200) feet from any roadway intersection.

- E. In any Planned District, the Planning Board and the Town Board shall review and approve any proposed business sign as a part of the review of a project in such Planned District.

### **Section 18 - Site Improvements and Screening**

- A. Site improvements, including landscaping and screen-planting may be required according to the following:
  - 1. Any use required by this Local Law to be screened shall provide a fence, screen, or landscaping sufficient to obscure such uses from view from abutting properties and the public right of way as is considered appropriate. The Planning Board or Town Board may require sufficient screening to be installed using one or more combination of the following:
    - a. Vegetated berms may be constructed if they are compatible with the surrounding area.
    - b. Fencing at least eight feet in height may be required and shall be equipped with interlocking opaque slats, mesh, or other screening material. Color of materials shall be uniform, non-reflective tones. Approved colors shall include, but not be limited to green, brown, tan, and black and be complementary to the color of the fence and painted equipment.
  - 2. Plans and site design for the installation of such fencing or screening as are required shall be reviewed and approved by the Planning Board in the instance of a Special Use Permit or a Planned Development District prior to authorization of a Permit.
  - 3. Any fencing or screening installed in accordance with this Section shall be maintained in good order to achieve the objectives of the same. Failure to maintain required fencing and screening shall be considered a violation of this Local Law.

### **Section 19 - Mobile Homes on Individual Lots**

- A. All mobile homes located or installed on an individual lot after the effective date of this Local Law or its amendment shall comply with the State Code for Construction and Installation and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974 and as it may be amended.
- B. A Permit shall be required for any and each addition or alteration to the mobile home and such Permit shall include a provision for removing the structural addition, unless a Certificate of Compliance is granted therefor, at such time as the mobile home may be removed or relocated.

- C. An approved metal, wood or other suitable skirting or framing, properly ventilated and attached shall enclose that area from the bottom of the floor line of the mobile home to the ground.
- D. One recreational Living Unit (camping trailers, tents, or other recreational or temporary living quarters) will be allowed as an accessory to a single family dwelling unit in all zoning districts for the purpose of camping for temporary periods, not to exceed one hundred fifty (150) days per calendar year, and must have fully self-contained sanitary facilities or sanitary facilities connected to an approved septic system. All recreational living units allowed under this section must be removed from the premises at the end of the one hundred fifty (150) day period, except legally registered recreational vehicles may be stored upon the premises if a permanent dwelling exists on the lot. Permit required unless unit falls under Exempt Building/Use definition.

## **Section 20 –Supplemental Development Standards**

These development standards apply to all districts in the Town of Sharon, unless indicated below.

### **A. Landscaping**

- 1. Landscape Plan: A landscape plan shall be required for all commercial uses subject to a Special Use Permit. Such plan shall include a combination of large canopy trees and small to medium canopy trees which are native, shrubs, vines, groundcover, ornamental grasses, and/or wildflowers, complementary to the surrounding landscape. When possible, sites should be located to utilize natural, structural, and topographical screens.
  - a. Trees shall be a minimum three inch (3”) caliper at the time of planting. A minimum of six (6) trees per one hundred linear feet (100 lf) is required. All vegetation shall be planted and spaced to provide maximum screening, growth, and overall health.
  - b. At least fifty percent (50%) of the landscape vegetation shall be evergreen.
  - c. The vegetation shall be kept in an attractive state and in good condition at all times by the applicant or operator.
  - d. Landscape plans shall be prepared by a landscape architect.

### **B. Protection of Agriculture**

- 1. To minimize impacts on agriculture, the Planning Board may require a use subject to a special permit to have the building envelope sited on the least fertile soils for agricultural uses and in a manner which permits access to active agricultural land. Structures shall, to the maximum extent practicable, avoid being placed on lands

defined by the Schoharie County Soil Survey as being Prime Farmlands, or Soils of Statewide Importance.

2. The Planning Board may require an additional setback or buffer to be established between new non-farm development and existing farm operations. Establishment of the buffer shall be the responsibility of the non-farm use. The width and character of such buffer shall be determined based on topography, and site conditions.

### **C. Noise and Seismic Testing**

1. No person shall intentionally cause public inconvenience, annoyance, alarm, or recklessly create nuisance noise. Every person in the Town of Sharon is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of property. Noise impacts shall be reviewed by the Planning Board for all projects seeking site plan or special use permits as per Article V, Sections 21 and 22.
2. Seismic Testing:
  - a. All seismic testing operations shall receive a Special Use Permit approval from the Planning Board prior to initiation of operation. Seismic testing using any kind of blasting is prohibited in any location of the Town of Sharon having limestone bedrock, regardless of zoning district.
  - b. Any application for seismic testing shall include description of the method to be used for seismic testing and proof that the test location is not in an area having karst features or limestone bedrock.
  - c. When blasting occurs in order to conduct seismic testing, there shall be a 700-foot setback for any such operation from any public or private water supply.
  - d. Whenever blasting for seismic testing takes place, each shot hole shall be immediately filled to prevent groundwater contamination by surface water. Water quantity conditions shall be documented in all wells within 1000 feet of the test by a professional water well contract or hydrogeologist before any seismic testing shall be allowed.

### **D. Odors and Fumes**

1. There shall be no nuisance caused by noxious or harmful odors or fumes,

### **E. Lighting for Commercial Uses**

1. There shall be no outdoor lighting associated with any commercial land use directed in such a manner that they shine directly on public roads, adjacent property or property in the general vicinity of the land use.

2. All outdoor lighting associated with commercial land uses shall be directed downward using full-cut off shielded light fixtures so as to avoid glare on public roads and adjacent habitable structures and residences.
3. The Planning Board may require all non-essential lighting to be turned off after business hours.

## **F. Protection of Natural Resources, Water Supplies, and Aquifers**

### **1. Townwide:**

- a. All non-agricultural development within the mapped Floodplain is prohibited.
  - b. All construction on any streambank lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the streambank, 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 streambank.
  - c. Development shall be carried out in such a manner as to minimize fragmentation of the forest vegetation.
  - d. The Planning Board, Town Board, or Zoning Board of Appeals may require that vernal pools (seeps) within wooded areas be identified and development moved away from them and from within the upland area surrounding the vernal pool up to a 700' radius.
  - e. No land disturbance, except for agriculture, shall take place on steep slopes in excess of 25%. Erosion and sedimentation impacts shall be minimized through use of best management practices and/or filing of erosion and sedimentation control plans for development occurring on slopes between 15% and 25%.
  - f. No on-site sewage field or seepage pit shall be located within one hundred (100) feet of any streambank and no septic or other holding tank shall be located within fifty (50) feet of any streambank, as measured from the normal high water mark of the waterbody.
- 2. The Town of Sharon hereby establishes three Critical Environmental Areas pursuant to 6 NYCRR Part 617.14 (g) as follows:**
- **CEA 1:** Areas having an environmental sensitivity of 3 or more from composite map analysis in Appendix E of the Town of Sharon Comprehensive Plan.

- **CEA 2:** Engleville Pond Watershed (public water supply for the Village of Sharon Springs) from the Watershed Map in Appendix E of the Town of Sharon Comprehensive Plan.
  - **CEA 3:** Karst/Limestone area from the Karst Map in Appendix E of the Town of Sharon Comprehensive Plan.
- a. The potential impact of any Type I or Unlisted Action on the environmental characteristics of each of these CEA's is a relevant area of concern and must be evaluated in the determination of significance prepared in any SEQRA action pursuant to Section 617.7 of 6 NYCRR Part 617.
  - b. In addition to other requirements of this Local Law, the Planning Board, Town Board, or Zoning Board of Appeals shall, to the maximum extent practical, minimize impacts to these critical resources in the Town of Sharon by:

**1. Within the CEA1:**

- a. There shall be a 100' setback from all wetlands.
- b. No site disturbances, except for agriculture, shall take place within 100 feet of any stream bank located within the CEA 1. Natural vegetation shall remain undisturbed to the maximum extent possible in order to preserve an environmentally healthy stream and stream corridor. Clearcutting and removal of vegetation is prohibited. However, selective cutting to remove individual trees to create "view corridors" from new structures or selective cutting of trees for forestry operations shall be allowed.

**2. Within the CEA2:**

- a. The following activities are prohibited within the CEA 2:
  1. The on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes, including aqueous-carried waste (except for animal manure and associated bedding material, and agricultural use of food processing wastes where the waste is applied at or below rates used for agriculture) is prohibited.
  2. Surface land application of septage, sewage, sludge, or human excreta.
  3. Disposal of snow or sand containing salt or deicing compounds that has been transported from off-site areas.

4. Stockpiling or storage for other than residential uses of coal, bulk chemicals, deicing compounds, hazardous substances, or hazardous waste.
  5. Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation.
  6. Storage of manure, except in conjunction with agricultural operations.
  7. Construction of municipal or industrial sewage treatment facilities with disposal of primary or secondary effluent.
  8. Mining and excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use (except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use).
  9. Vertical or horizontal drilling of wells used for obtaining oil, obtaining natural gas, gas storage, solution mining, or brine disposal.
- b. Lot coverage. The maximum lot coverage within the CEA 2 shall not exceed fifteen percent (15%) of the lot area except that agricultural operations are not subject to this requirement.

**3. Within the CEA 3:**

- a. Lot coverage. The maximum lot coverage within the CEA 3 shall not exceed fifteen percent (15%) of the lot area except that agricultural operations are not subject to this requirement.
- b. No seismic testing using any type of blasting shall be allowed.

**G. Standards for Individual Uses**

The following standards for individual uses subject to Special Use Permits to be considered under the provisions of this Local Law include, but are not limited to, the following:

**1. Home Occupation.**

A home occupation may be approved only if it complies with the following:

- a. One sign as is permitted under this Local Law. Outdoor display of items produced by such Home Occupation shall be subject to approval and regulation by the Planning Board. Request for permission to display items shall be made when applying for Special Use Permit.
- b. Such use is clearly incidental and secondary to the use of the premises for residential purposes and further provided that such use shall not occupy or utilize in excess of twenty (20) percent of the gross floor area of the dwelling unit and its accessory buildings.
- c. Off-street parking shall be provided for all clients, customers, or patients in the side or rear yard. Such off-street parking shall be located at least ten (10) feet from any side or rear property line, shall be paved, screened or fenced as directed by the Board, and shall be so lighted that there will be no direct light into adjacent properties or streets.
- d. More than one home occupation may be permitted on a single lot. A separate Special Use Permit shall be required for each permitted Home Occupation. The area occupied by all permitted Home Occupations shall not exceed twenty (20 %) percent of the gross floor area of the buildings on the lot.

## **2. Rural Service Shop, Use:**

Such use shall be permitted only where the Planning Board determines that its purpose location and characteristics of operation are consistent with the purposes of the district and would not interfere with the rural residential or agricultural use of neighboring lands. In addition, the Board shall stipulate the following:

- a. In the instance an accessory building is to be constructed or located for this purpose, it shall conform with all minimum yard, building location and height requirements elsewhere specified in this Local Law, and shall not exceed nine hundred (900) square feet in gross floor area.
- b. No more than one (1) nonresident shall be employed or engaged in the operation of the business or service and any such use shall provide suitable parking, fencing, signing, lighting or other requirements as called for elsewhere in this Local Law and as the Board may specify.

## **3. Roadside Stand:**

A permanent structure, stand or location for the sale of seasonal farm produce may be established upon authorization of a Special Use Permit by the Planning Board where the Board determines that:

- a. As per Article 17 of the NYS Agriculture and Markets Law, all packaged food products sold at farm stands and farm markets must be properly labeled in accordance with NYS food labeling requirements. No packaging, cutting,

slicing, or portioning of agricultural products or ready-to-eat foods is permitted at farm stands or farm markets unless the proper retail food store sanitary facilities are provided as per Department Circular 962 rules and regulations related to retail food stores. Circular 962 outlines that certain food products may not be sold at farm stands and farm markets unless the proper refrigeration or preparation methods as per NYS Sanitary Rules for Direct Marketing are met.

- b. Structures used for Farm Markets must meet the State Uniform Fire Prevention and Building Code, Fire Code and Health Department requirements and receive a Building Permit from the Town of Sharon.
- c. All front and side yard required setbacks as per the district schedule of this zoning law shall be met. When a site plan review is required for a farm stand or farm market, the Planning Board shall ensure that there will be adequate ingress, egress, parking, and site distances to ensure vehicular and pedestrian safety. All parking requirements of Section 16 shall be met. All parking for a farm stand or farm market shall be provided outside of the roadway or right of way so that no parked cars are in any travel or right of way at any time. If a farm stand is located on a State or County Road, it shall also receive NYS DOT or Schoharie County DPW approval prior to local issuance of an operational permit.
- d. (Our CPC contacts DOT and CO. DPW for their opinion when we submit an application to them.)
- e. All signage shall meet requirements of Section 17 (signs) of this zoning law.
- f. Farm Markets may sell some agricultural products grown off the farm operation. However, a predominance of on-farm products is required.
- g. Farm Markets with on-site preparation of processed foods and consumption of foods on-site shall be considered part of a farm operation as per New York State Department of Agriculture if the products that are prepared or consumed are composed primarily of ingredients produced on-farm.
- h. Farm Markets shall show proof that facilities are in compliance with local, county and state health requirements.
- i. Such use will not interfere with the normal flow of traffic or present a hazard by way of its proximity to the highway and in this regard that adequate pull-off and parking area is provided.

- j. Such use will not present a nuisance or be objectionable to neighboring uses in terms of traffic, noise or unsightliness.
- k. In addition, an annual Operating Permit shall be required for all roadside stands, such Permit to be effective to that date specified in the application of the calendar year of its issuance. Application for such Operating Permit will be made to the Town Clerk sixty (60) days prior to initiation of the proposed use. Upon recommendation of the Code Enforcement Officer and the Planning Board, the Town Board shall issue or deny such Permit in accord with the requirements set forth herein and any established fee schedule.

**4. Public/Semi-Public Structure, Use:**

Such uses shall include various municipal and quasi-public, nonresidential uses such as school, church or library. These uses shall be subject to the following regulations:

- a. The location, design, and operation of such facility shall not adversely affect the character of the surrounding residential area.
- b. Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Planning Board.

**5. Public Utility or Service Structure, Use:**

Public utility uses and/or structures, as defined in Article VII to this Local Law, subject to the following:

- a. Such facility or installation shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- b. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
- c. Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Board.
- d. Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen planted in accordance with the needs of the instant situation as determined by the Board.

**6. Eating, Drinking Establishment:**

In addition to meeting the minimum yard and lot coverage requirements, such businesses shall be subject to the following regulations:

- a. Such use shall have adequate frontage on a public roadway.
- b. Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to the explicit approval of the Planning Board.
- c. Such use shall be adequately fenced and screened from any adjacent residential property and lighting shall be directed away from adjacent property and the highway.

**7. Gasoline Station, Service Garage:**

In addition to meeting the minimum yard and lot coverage requirements, any such establishment shall be subject to the following regulations:

- a. Such establishment shall not be closer than two hundred (200) feet to any existing residential use.
- b. The minimum distance between pump islands and between the building and any pump islands shall be twenty (20) feet.
- c. No waste water, oil or other materials shall drain onto, pollute or create hazardous or unsightly conditions because of surface drainage.
- d. The number of driveways shall be subject to the approval of the Planning Board.
- e. Any auto wash in addition to meeting the off-street parking requirements shall provide four (4) stacking spaces per bay on the lot to prevent the waiting of automobiles in the public street.
- f. No exterior storage of dismantled or disabled motor vehicles, parts or salvage material shall be permitted.

**8. Hotel, Motel, and Tourist Accommodation:**

Any such use shall be considered by the Planning Board according to the following:

- a. The Planning Board may require fencing, earth berms, evergreen vegetation or other buffers to reduce visual conflicts with neighbors. All uses shall be screened from adjacent residential uses within or abutting the hotel/motel property by a buffer yard of forty (40) feet in width containing trees, and shrubs along the perimeter of the lot line abutting the residential use. Existing vegetation along Routes 20 shall be retained and maintained to the extent possible so as to permit such vegetation to fulfill or contribute to the buffer and screening requirements. In lieu of compliance with the above buffer yard

and screening requirements, an applicant may submit a detailed plan and specifications for landscaping and screening which will afford the same degree of buffering or screening provided by the above requirements.

- b. No guest, employee or owner parking shall be located on the street.
- c. No more than one (1) free standing sign to identify the property, in compliance with Section 17 of this Local Law is permitted.
- d. Meals offered to the general public shall be allowed as an accessory use. When meals are also offered to the general public all parking shall be in accordance with Section 16 of this Local Law.
- e. Recreational facilities for the sole use of guests are permitted as accessory uses including pool, playground, tennis or other game courts, game or recreation rooms, office and lobby.
- f. Adequate access, egress and parking accommodations including at least one (1) parking space per rental unit.
- g. A minimum of ten (10) rental units shall be provided for and the minimum floor area of each shall not be less than three hundred (300) square feet.
- h. Lighting, signing and landscaping shall be as otherwise required under this Local Law and in accord with any additional provisions the Board may stipulate.
- i. Traffic impacts. A traffic study shall be required if the number of additional vehicle trips per day to be generated by the hotel/motel will exceed one hundred (100). The applicant must provide for any road improvements, traffic access management, and traffic control to accommodate increased traffic generated by the hotel/motel. The number of egress and ingress curb cuts shall be minimized. The local fire department and ambulance service shall review and approve all access plans to ensure safety and access for emergency services.

#### **9. Commercial Excavation, Mineral Extraction, Small and Large Mines:**

Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of topsoil, earth, sand, gravel, clay or other natural mineral deposits is subject to the following conditions:

- a. All commercial excavation, mineral extraction and mining use, as defined in this Local Law shall require special use permit approval by the Planning Board.

- b. Exemptions. The following mining activities shall not require a special use permit:
1. Operations in connection with construction of improvements, changing of contours, and grading of lots in an approved subdivision, or on a parcel associated with an approved Special Use Permit provided that no more than five hundred (500) cubic yards of earth materials are removed from the lot.
  2. Construction of a pond where no more than eight thousand (8,000) cubic yards of material are removed from the site.
  3. Operations in connection with on-site agricultural uses.
- c. For **Small Mines** (less than 750 cubic yards) and When No New York State Department of Environmental Conservation Mine Land Reclamation Law (MLRL) Permit Required. The Planning Board, in reviewing special use permit application for a small mine shall consider the health, safety and welfare of the community and the following:
1. No mining may take place within one hundred (100) feet of any property boundary nor within one hundred (100) feet from any public roadway.
  2. Manmade or natural barriers shall be created or maintained to provide adequate screening.
  4. Dust shall be controlled so that it does not migrate off the site.
  5. The hours of operation shall not exceed twelve (12) hours in any one day nor commence before 7:00 a.m. on any day nor extend beyond 7:00 p.m. on any day, nor shall there be any operation conducted on Sunday.
  6. No excavation shall take place within five (5) feet of the existing water table except for pond excavation.
  7. Erosion or other environmental impacts due to mining on steep slopes shall be minimized.
  8. The Planning Board shall ensure adequacy of public roadways or rights of way providing direct access to and from the site. In this regard, if town roads are used for ingress and egress, these roads need to be constructed in accordance with the latest version of the Town of Sharon's highway design standards with regard to adequate shoulders, adequate pavement and adequate sub-base. If the existing town roadway proposed to be utilized for direct access to and from any site does not meet these standards, then mining at the proposed site shall not be permitted, unless

suitable arrangements are made by the applicant to improve the Town roadway to meet these requirements upon permission from the Town, and without any significant expense to the Town.

9. Any accompanying structure or processing facility shall be so located as not to interfere with the visual qualities or open-space character of the land or any adjoining uses.
10. Adequate fencing and appropriate screen-planting shall be as stipulated by the Planning Board.
11. A plan for restoration and rehabilitation of a commercial earth excavation area or borrow pit shall accompany the application for a Permit to assure conformance with the public health, safety and welfare. The Planning Board, upon approval of such plan, may require a performance bond to assure rehabilitation of commercial excavation sites in conformity with the plan.
12. A plan for drainage of the area, both during and after excavation.
13. The Planning Board may, if it deems appropriate, direct that the applicant proceed to mine in stages and may require reasonable provisions in connection with closing and reclamation of the existing stage prior to permitting the applicant to commence mining activities in the next stage.
14. The Planning Board may require suitable fencing for enclosing the property if it deems that this is appropriate.
15. The applicant must demonstrate that the proposed access to and from the property will not create safety or traffic hazards.
16. Trucks and vehicles shall be loaded and operated so as not to spill gravel, rocks, sand or other earth materials upon the roads and highways utilized to and from the site, or otherwise impair or damage to the roads or highways.
17. The applicant shall be required to take all measures necessary in order to reduce the noise level to the extent possible. The applicant shall demonstrate that there shall be no vibration effecting properties beyond the limits of the lot.
18. The Planning Board may, in its discretion, require the applicant to submit written proof that the proposed mining is not subject to the laws and rules set forth in the New York State Mined Land Reclamation Law.

19. In considering whether to grant a Special Use Permit, the Planning Board shall also determine that the project meets all of the requirements set forth in the Town of Sharon Section 21, Special Use Permit.
  20. No dumping or other disposal of either solid or liquid waste shall be allowed as part of the mining operation.
  21. The Planning Board may also consider such other measures reasonably necessary to mitigate any other environmental impact that may arise as a result of the mining operation.
- d. For **Large Mines** (750 cubic yards or greater) Subject to NYS DEC MLRL Requirements. For certain mining activities, the New York State Mined Reclamation Law (MLRL) establishes that New York State Department of Environmental Conservation (NYS DEC) is responsible for the regulation and permitting of mining activities and reclamation of operations that extract one thousand (1,000) tons or seven hundred fifty (750) cubic yards or more of a mineral during twelve (12) consecutive calendar months. The NYS DEC is the entity responsible for administering a MLRL permit for mining. The applicant for such permit shall simultaneously apply to both the NYS DEC and the Planning Board. With regard to all Special Use Permits which are subject to the applicant having to obtain a permit from DEC, the Planning Board, in granting such special use permit shall consider the health, safety and welfare of the community and shall advise the NYS DEC on the following:
1. Whether mining is permitted in the location indicated on the MLRL permit application.
  2. The appropriate setbacks from roads and property boundaries.
  3. The location and design of barriers to restrict access to the mine.
  4. Dust control measures.
  5. Hours of operation.
  6. Any other issue as may be referenced in and appropriate under the MLRL.
- e. **Application Requirements for Small and Large Mines:** Applications for a special use permit shall show the following:
1. The full names, signatures and addresses of the owner, lessee, operator and applicant and the written consent of the mortgagee, if any.

2. Proof of ownership of the property and the names and addresses of all parties having an interest in any entity involved as the owner or operator of the site, such as a limited liability company, corporation or limited partnership which owns or has an interest in the property. If the property is owned in whole or in part by a corporation or limited liability company, the applicant shall provide the names and addresses of all officers, stock shareholders or members of each entity.
  3. Description of proposed operations. A statement clearly detailing the nature and extent of operations, including the type and amount of material to be filled, re-graded or removed, the manner in which it will be accomplished, the proposed hours of operation, and a time schedule for the completion of the various stages of the operation.
  4. Site Plan Map. A Site Plan map drawn to scale, prepared by an engineer or surveyor licensed to practice in the State of New York, showing all improvements on the property as well as the proposed area for mining and other improvements to be constructed in connection with the mining operation.
  5. Boundaries of property. The boundaries of property where the excavation is proposed and the area to be excavated, filled or re-graded.
  6. Existing contours. Existing contours in the area of operations and the proposed contours after completion of the work, which contours shall be prepared from an actual field survey, shall be based on a bench mark note and described on the map and shall be drawn to a scale of not less than one hundred (100) feet to the inch and with a contour interval not to exceed two (2) feet. If necessary, the Planning Board may require more detailed contours.
  7. Existing and proposed water bodies and drainage. Existing and proposed watercourses, water bodies, erosion control and drainage on the premises.
  8. Surrounding area. Surrounding streets and property lines and names of property owners, natural features, existing and proposed structures, a phasing plan, if any, and the environmental assessment form necessary to comply with SEQRA.
  9. Other. Such other maps, plans, boring tests, feasibility studies and engineering data as may be required by the Planning Board in order to determine and provide for the proper enforcement of this Local Law.
- f. The Town Code Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation at any time. If the Town Code Enforcement Officer determines that there is a violation of operating conditions and/or that the mining operation is not being conducted or cannot

be conducted in accordance with the plans as approved, the mining permit shall automatically become null and void, upon notification sent to the permittee by regular mail to the address given on the application. The permittee may change this address given on the application. The permittee may change this address from time to time in writing submitted to the Town Code Enforcement Officer.

- g. Length of permit. The Planning Board shall determine the length of any mining permit issued, however, no mining permit shall be issued for more than five years. If it is contemplated that the mining operation will take more than 5 years, then the applicant shall apply to the Planning Board for renewal of the permit before the expiration of the 5 year period.
- h. Pre-existing mines: With respect to mines which currently are being operated in the Town of Sharon pursuant to valid permits which have not expired, the owner of any such property shall be entitled to continue the operation of same pursuant to the provisions of a valid permit currently in effect through the time that such permit expires. Thereafter, any application for renewal of an existing valid permit shall be subject to the provisions of this law.

#### **10. Junkyard:**

No junkyard shall be established hereafter in any area of the Town unless a Special Use Permit shall have been authorized by the Planning Board for such use. Before a Special Use Permit for a junk yard is authorized, the Planning Board shall find that such use will not constitute a detriment to the public health, safety, welfare, convenience, and property values by reason of dust, smoke, fumes, noise, traffic, odors, vermin or other condition. The Planning Board may specify any reasonable requirements to safeguard the public health, welfare, safety, convenience and property values in authorizing such Permit, including the following:

- a. Said use shall not be located within five hundred (500) feet of any highway, stream, lake, pond, wetland, or property line, any existing church, school, public building, park, or place of public assembly.
- b. Any new junk yard shall be completely surrounded with a fence which substantially screens said area and shall have a suitable gate which shall be closed and locked except during the normal working hours of said use. Such fence shall not be erected nearer than fifty (50) feet from any highway or property line. All junk and dumping materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence, except during transportation of same in the reasonable course of the business. No dumping or burning of same shall be accomplished within the Town.
- c. Where the topography, landforms, natural growth of trees or other considerations accomplish the purpose of this provision in whole or in part,

the fencing requirements hereunder may be reduced by the Planning Board, provided, however, that such natural barrier conforms with said purposes.

- d. Inside, adjacent to and continuous with the fence or enclosure, there shall be one strip of land at least three feet in width which shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.
  
- f. No materials shall be burned or buried in a junkyard except in compliance with Article 27 of the Environmental Conservation Law of the State of New York and its implementing regulations promulgated by the New York State Department of Environmental Conservation (Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6 NYCRR Part 360") and any other applicable law or ordinance of the municipality.
  
- g. The Planning Board may require a bond at the time of permitting to cover future cleanup costs.

#### **11. Other Commercial Uses:**

Those other commercial and light industrial uses provided for in Attachment I – of this Local Law - Uses requiring Special Use Permit, and not otherwise specifically provided for in this Section may be permitted upon authorization of the Planning Board. Uses similar to those listed may also be considered for a Special Use Permit. In either case, the Planning Board shall determine that:

- a. The proposed use will not detract from or interfere with adjoining uses or vacant land.
  
- b. The proposed use is consistent with the Town Plan for the area in question.
  
- c. The individual parking, loading, storage, signing, screening and other needs of the proposed use are provided for in a manner satisfactory to the Board.

#### **12. Family Care Facility:**

The Planning Board shall review any such proposed use to determine that it will not adversely affect the existing character and social structure of the neighborhood or surrounding area and to preclude the over concentration of such facilities that would defeat the purpose of deinstitutionalization. In particular, the Board shall review any application for such use according to the following:

- a. In addition to the requirement set forth in Attachment I, the Board shall determine that the lot area and open space provisions are of adequate size and suitably located to satisfactorily accommodate the number and type of occupants. Specifically, an average of three hundred (300) square feet of open

space recreational area shall be provided on the site for each resident less than eighteen years of age and two hundred (200) square feet of open space recreational area shall be provided on the site for each resident eighteen years of age and older.

- b. Not more than two (2) such facilities will be located within one thousand three hundred twenty (1320) feet or one-fourth (1/4) mile of another such use in the Town and the total number of such facilities will not exceed five (5) percent of the total number of year-round single family dwellings in the Town, exclusive of the Village, at any point in time.
- c. Adequate access and egress shall be provided to the public right-of-way and suitably located off-street parking provided, including a minimum of one (1) parking space for each resident or employee authorized to operate a motor vehicle.

### **13. Dwelling, Multi-family:**

The Planning Board shall review any such proposed use to determine that it will not adversely affect the existing character of the neighborhood or surrounding area. In particular the Board shall review any application for such use according to the following:

- a. In addition to the requirements set forth in Attachment I, shall determine that the structure is appropriately placed on the lot so as to fit with the surrounding neighborhood and is of exterior design suitable to the locality. Provision shall be made for open space suitably located to satisfactorily accommodate the recreational needs of the residents.
- b. Provision shall be made for adequate water supply either by one or more proven wells or by approved water storage tanks. Plans submitted to the Planning Board shall include documentation to ensure that all units will have adequate water during peak hours of use.
- c. No new structure for such use shall exceed four (4) dwelling units. No unit within the structure will exceed two (2) bedrooms. Each unit shall have a minimum of six (600) square feet of living space.
- d. An existing residential structure may have the number of dwelling units contained within it increased, provided that the total number of dwelling units within the structure after conversion shall not exceed three (3). Each unit shall have a minimum of six hundred (600) square feet of living space.
- e. Such facilities shall be located on hard surfaced roads which permit access for fire and rescue equipment, school buses and snow removal.

- f. Adequate access and egress shall be provided to the public right-of-way and suitable located off-street parking shall be provided, including a minimum of one and one-half (1 1/2) parking spaces per dwelling unit.
- g. Not more than two (2) such facilities will be located within two thousand six hundred forty (2,640) feet or less than one half (1/2) mile of another such use in the Town. The total number of such facilities will not exceed five (5) percent of the total single/two family dwellings in the Town, exclusive of the Village of Sharon Springs, at any point in time.

#### **14. Efficiency Apartments:**

Conversion of an existing building to contain efficiency apartments shall be permitted only in accord with the following:

- a. Living space shall be two hundred (200) square feet at a minimum including sanitary facilities.
- b. A maximum of one (1) conversion or addition of an efficiency apartment can be made to a single or two family dwelling.
- c. Structures, such as motels, may be converted to efficiency apartments, provided that each unit will have a minimum of two hundred (200) square feet of living space and a separate, private bathroom.
- d. Provision shall be made for adequate water supply either by one or more proven wells or by approved water storage tanks. Plans submitted to the Planning Board shall include documentation to ensure that all units will have adequate water during peak hours of use.
- e. Such facilities shall be located on hard surfaced roads which permit access for fire and rescue equipment, school buses and snow removal.
- f. Adequate access and egress shall be provided to the public right-of-way and suitable located off-street parking shall be provided, including a minimum of one and one-half (1 1/2) parking spaces per dwelling unit.
- g. Not more than two (2) such facilities will be located within two thousand six hundred forty (2,640) feet or less than one half (1/2) mile of another such use in the Town. The total number of such facilities will not exceed five (5) percent of the total single/two family dwellings in the Town, exclusive of the Village of Sharon Springs, at any point in time.

## **15. Kennels:**

The Planning Board shall review any such proposed use to determine that it will not adversely affect the existing character of the neighborhood or surrounding area. Any special use permit issued for a kennel shall be for a term of one year. Such permit shall be renewable by the Code Enforcement Officer provided all original special use permit conditions continue to be met. In particular the Board shall review any application for such use according to the following:

- a. The minimum lot size shall be five (5) acres.
- b. No kennel enclosure, building, or fence shall be permitted within fifty (50) feet of any property line.
- c. All outdoor areas used by animals shall be located to the side or rear of the principle building on the site. Such areas shall be enclosed by fencing of a type of construction and height sufficient to confine any animal on the premises.
- d. In considering the application for a Special Use Permit for a kennel, the Planning Board shall consider the number, size, breed and temperament of animals to be sheltered in order to ensure the health, safety and general welfare of the community.
- e. Buildings in which animals are to be housed shall have adequate provisions for heat, ventilation and sanitation for proper maintenance of the health of the animals. Sufficient housing shall be provided to ensure that all animals can be confined inside a building simultaneously.
- f. Adequate provisions shall be made for sanitary disposal of animal waste supplies and to preclude offensive odors becoming a nuisance.
- g. In issuing the Special Use Permit approval for a Kennel, the Planning Board shall stipulate the maximum number and type of animals to be boarded, harbored or trained.
- h. All animals being boarded, harbored or trained in a kennel facility shall be confined indoors during hours of darkness.

## **16. Bed and Breakfasts:**

Any such use shall be considered by the Planning Board according to the following:

- a. The appropriateness of the use in its proposed location relative to the R-H district classification and to surrounding uses or open-space characteristics.

- b. The amount of land involved, the number of occupants and the size and sophistication of accommodations to be provided as these pertain to the intensity of the use and the ability of the land and the character of the surrounding areas to accommodate it within the intent of the R-H zoning district.
- c. Adequate access, egress and parking accommodations including at least one (1) parking space per rental unit.
- d. A minimum of two rental units.
- e. Lighting, signing and landscaping shall be as otherwise required this Local Law and in accord with any additional provisions the Planning Board may stipulate.

**17. Telecommunications Facilities:**

- a. A telecommunication facility shall be allowed in any district subject to the issuance of a special permit and site plan approval by the Planning Board.
- b. Telecommunication facilities proposed for co-location on a previously approved facility shall not require a special permit but shall require site plan approval by the Planning Board and the issuance of a building permit by the Code Enforcement Officer. Facilities proposed to be located on an existing structure or at a location not previously approved for such a facility shall require a special permit as well as site plan approval.
- c. For each telecommunication facility requiring only a building permit and site plan approval the applicant shall submit a written application for a building permit together with materials and documentation listed below with the exceptions of 1.) & 2.).

For each Telecommunications Facility requiring a Special Use Permit, the applicant shall submit the following:

- 1.) A written application for such permit to the Planning Board on a form prescribed by the Planning Board.
- 2.) Environmental Assessment Form (long form) with the Visual Addendum as referred to therein.
- 3.) An analysis demonstrating that location of the telecommunication facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's telecommunication system and to provide adequate service and coverage to the intended area.

- 4.) A site plan prepared to scale and in sufficient detail and accuracy showing at minimum:
  - a.) The exact location of the proposed telecommunication facility together with any guy wires and guy anchors, if applicable;
  - b.) The maximum height of the proposed telecommunication facility;
  - c.) A detail of tower type (monopole, guyed, freestanding, other);
  - d.) The location, type and intensity of any proposed lighting;
  - e.) Property boundaries and name of owner together with the names of adjacent land owners;
  - f.) The location of all other structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of those structures to any proposed telecommunication facility;
  - g.) The location, nature and extent of any proposed fencing, landscaping and/or screening;
  - h.) The location and nature of proposed and existing easements and access road, if applicable;
- 5.) Proof of consent and acknowledgment of potential liability for tower removal by the owner of the telecommunication facility and the owner of the structure and land on which the facility is located, if not the same person or entity.
- 6.) Agricultural Data Statement;
- 7.) Copy of Federal Communications Commission (FCC) license;
- 8.) Engineer's report of new access driveways and parking;
- 9.) Certification of Structural Safety;
- 10.) Letter of intent of removal of obsolete/unused facilities;
- 11.) Documentation of Intermunicipal Notification and;
- 12.) Any other supporting documentation the Planning Board deems necessary.

d. Additional Requirements And Standards

**1.) SETBACKS**

- a.) All telecommunication facilities shall be set back from abutting parcels, recorded rights of way and roads a distance equal to one and one-half (1 1/2) times the height of the facility or one hundred feet, whichever is greater. In addition the Planning Board may require such additional distances which in its opinion are necessary to contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining property
- b.) A telecommunication facility may be located on a single lot as a principal structure or on a portion of a lot of any existing use. If the land for such facility is to be leased, the entire area required shall be leased from a single lot of record unless a waiver is granted by the Planning Board based upon a showing of necessity that more than one parcel of record is essential to the development of the facility.

**2.) SHARED FUTURE USE OF NEW TOWERS**

In the interest of minimizing the number of new telecommunication facilities the Planning Board may require as a condition of either site plan or Special Use Permit approval that the applicant indicate in writing a commitment to co-location of such facilities and that the applicant will design any towers to have a minimum height and carrying capacity needed to provide future shared usage. The condition for co-location may not be required if the applicant demonstrates that provisions of future shared usage are not feasible or impose an unnecessary burden based upon:

- a.) the number of potential Federal Communications Commissions (FCC) licenses available for the area;
- b.) the kind of facility proposed;
- c.) the number of existing and potential licensees without facilities;
- d.) available spaces on other existing and approved facility; and
- e.) potential adverse visual impacts by a facility designed for shared usage.

**3.) CO-LOCATION:** Co-location utilizing existing tall structures such as municipal water tanks, silos or similar structures shall be preferred to the construction of new facilities. An applicant for a Special Use Permit shall present a report inventorying existing facilities and/or structures within a

technologically reasonable distance of the proposed site and outlining opportunities for shared use of same as an alternative to a proposed new facility including documentation demonstrating good faith efforts to secure such shared use including an analysis of any technical, physical and/or financial reasons why shared usage is not appropriate.

**4.) AESTHETICS** - A telecommunication facility shall be located and buffered to the maximum extent which is practical and technologically feasible to help insure compatibility with surrounding land uses. In order to minimize adverse aesthetic effects on neighboring residences the Planning Board may impose reasonable conditions including the following:

- a.) Landscaping consisting of trees or shrubs to screen the base of the facility from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent.
- b.) Siting and design of any tower so as to avoid, if possible, application of Federal Aviation Administration (FAA) lighting and painting requirements, it being understood that towers should not be artificially lighted, except as required by the FAA.
- c.) Any facility shall, subject to FAA requirements, contain materials, colors and textures designed to blend with the natural surroundings; and
- d.) No facility shall contain any advertising sign or device.

**5.) TRAFFIC ACCESS AND SAFETY**

- a.) Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. New access driveways shall conform to the provisions contained in Town Law 280(a) and, in addition, shall have a sufficient base to support a twenty ton emergency vehicle as certified by a detailed cross-section stamped by a licensed engineer. Driveway areas shall be clear of obstructions for a height of twelve (12) feet and a width of sixteen (16) feet.
- b.) The number of off-street parking spaces shall be not less than one space for each employee at maximum shift and shall be designed and located to provide adequate berths for both passenger and service vehicles. The parking area shall be designed to provide emergency and service access. The Planning Board may also require additional spaces based upon its review of the site, its proximity from other land use activities and public roads and the surrounding topography.

- c.) All tower and guy anchors shall be enclosed by a fence no less than six (6) feet in height or otherwise sufficiently secured to protect the site from trespassing or vandalism.
- d.) The applicant must comply with all applicable state and federal regulations including, but not limited to, FAA and FCC regulations.
- e.) The applicant shall provide certification from a qualified, licensed engineer, certifying that the telecommunication facility meets applicable structural safety standards including those required by all applicable codes and that its operation will not interfere with local frequency transmissions including radio and/or television.
- f.) The building height regulations otherwise applicable in the underlying district shall not apply to towers provided that the applicant submits sufficient information to justify the proposed height as the minimum necessary to meet its transmission requirements.

**6.) REMOVAL OF OBSOLETE/UNUSED FACILITIES** - Written notification of discontinuance of a facility shall be given to the Code Enforcement Officer and filed with the Town of Sharon Planning Board not less than thirty (30) days prior to such discontinuance. Facilities which are discontinued shall be removed from any site no later than six (6) months of such notification. This provision shall not apply to any structure which otherwise was in existence prior to its use as a facility and the use of which may continue independently of such facility.

**7.) INTERMUNICIPAL NOTIFICATION** - In addition to the inter-municipal and county notification which may be required by other laws it is the intention of the Planning Board to promote Intermunicipal cooperation in the approval of telecommunication facilities and to also promote the development of a 911 warning system. Therefore, all applicants shall provide written notification to the legislative body of each municipality that borders the Town of Sharon, the Schoharie County Planning and Development Agency and the Director of the Schoharie County Communications 911 Program of its application including the exact location of the proposed facility and a general description of the project including the maximum height of same and its capacity for future use. Proof of such notification shall be submitted to the Planning Board as part of the application.

**8.) PROFESSIONAL REVIEW OF SUBMISSIONS** - The Planning Board shall require at the applicant's expense the following:

- a.) Review of the application by a qualified engineer in order to evaluate the need for the facility at the proposed location and the appropriateness of the site layout and design; and

- b.) Report of a licensed professional engineer certifying that any proposed shared use will not diminish the structural integrity and safety of an existing facility and, if so, what modifications will be required in order to achieve said result.

**9.) INSURANCE** - The applicant shall obtain a policy of General Public Liability Insurance if a special use permit is granted. The policy shall be obtained from an insurance company licensed to do business in New York State and shall be an amount equal to the coverage carried by the Town of Sharon. A certificate of insurance shall be presented to the Town Board of Sharon and a copy to the Planning Board within three months after final Special Use Permit approval or before commencing with construction, whichever comes first, or said Special Use Permit shall be deemed void. The certificate of insurance shall name the Town of Sharon as an additional insured. Such policy shall be maintained until the telecommunication facility has been removed. The applicant will provide the clerk of the Town of Sharon with proof of insurance and /or insurance renewal on a yearly basis, no less than sixty (60) days before such policy expires.

**10.) DISCONTINUANCE OF A FACILITY.** At such time as notification is given, as provided herein, of the discontinuance of a facility, the applicant shall also provide the Town of Sharon a bond to cover the cost of removal which names the Town as a party in interest. A qualified engineer of the Planning Board's choice will determine the bond amount. The responsible party will also provide such a bond within three months after final special use permit approval or before commencing construction of any facility, whichever comes first, or said special use permit shall be deemed void. Such bond shall remain in effect until the construction or removal is complete

**11.) EXEMPTIONS** - The following telecommunication facilities are not subject to the provisions of this Section:

- a.) Antennas and satellite dishes having a diameter not exceeding two (2) meters in commercial districts and one (1) meter in all other districts designed and intended to be used exclusively for the occupants of the property on which they are located provided they are not situated on towers having a height greater than 35 feet above the ground.

**12.) REPAIR AND MAINTENANCE:** Telecommunication facilities may be repaired and maintained without further approval except for such permits as required under applicable building, fire and similar local, state or federal laws.

## **18. Adult Use and Entertainment Establishments**

- a. Definitions

Adult Use and Entertainment Establishments: A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age, and are those businesses defined as follows:

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing “specified sexual activities” or “specified anatomical areas”.

Adult Bookstore or Adult Video Store means a commercial establishment that has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its interior business advertising from the sale or rental for any form of consideration any one or more of the following:

- a. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or described “specified sexual activities” or “specified anatomical areas”; or
- b. instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an Adult Bookstore or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas”. For purposes of this definition, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

- (1) the number of different titles or kinds of such merchandise;
- (2) the number of copies or pieces of such merchandise;

- (3) the amount of floor space devoted to the sale and/or display of such merchandise; or
- (4) the amount of advertising that is devoted to such merchandise, either in print or broadcast media.

Adult Cabaret means a nightclub, bar, non-alcoholic or ‘juice’ bar, restaurant, or similar commercial establishment which regularly features:

- a. persons who appear in a state of nudity; or
- b. live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- c. films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Motel means a hotel, motel or similar commercial establishment which:

- a. provides patrons with closed- circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of sexually oriented type of material by means of a sign visible from the public right of way or by means of off-premise advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- b. offers sleeping rooms for rent on a regular basis for a period of time that is less than (10) hours; or
- c. allows a tenant or occupant of a room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Theater means a theater, concert hall, auditorium or similar commercial establishment which for any form of consideration features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

Escort Agency means a person or business association who furnishes, or offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

Escort means a person who, for a fee, tip or other consideration, agrees or offers to any of the following: act as a date for another person; to privately model lingerie for another person; or to privately perform a striptease for another person.

Massage Parlor any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with “specified sexual activities”, or where any such person providing such treatment, manipulation, or service related thereto, exposes his or her “specified anatomical areas”. The definition of Adult Use shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program.

Nude Model Studio means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

Sexual Encounter Center means a business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or exposure of “specified anatomical areas”, or activities between persons when one or more of the persons is in a state of “nudity” or “semi-nude”.

Minor means a person less than eighteen (18) years of age.

Nudity or a State of Nudity means the appearance of “specified anatomical areas”.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-Nude means a state of dress in which clothing covers no more than the “specified anatomical areas”, as well as portions of the body covered by supporting straps or devices.

Specified-Anatomical Areas means (a) unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and (b) even if completely and opaquely covered, male genitals in a discernibly turgid state.

Specified Sexual Activity means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions.

b. Location within Allowed Zoning Districts

All Adult Use and Entertainment Establishments as defined herein may only be created, opened, commenced or operated within the Residential-Highway (R-H) zoning district within the Town of Sharon by special use permit issued by the Planning Board pursuant to Part III, Article IV, Section 21 of the Town of Sharon Land Use Code. Within such district, such uses shall have a minimum lot requirement of three (3) acres, a maximum building height of 2.5 stories or 30 feet, and any structures containing the Adult Use and Entertainment Establishment and any accessory use/structure shall not be allowed:

- i) within 25 feet of any property line;
- ii) within one hundred (100) feet of the property line of a parcel used for residential purposes in the Town;
- iii) within one thousand (1,000) feet of the property line of a parcel containing a church, synagogue, mosque, other place of worship, active cemetery, library, school, day-care facility, park, or playground, whether or not such use is located in the Town;
- iv) on the same parcel as another Adult Use and Entertainment Establishment; or,
- v) within five hundred (500) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Town.

The above distances of separation shall be measured from the nearest exterior wall or corner of the structure containing the Adult Use and Entertainment Establishment.

c. Standards appropriate to Special Use Permit for Adult Use and Entertainment Establishment

The Town of Sharon intends to protect the scenic beauty of US Route 20 and the value of residential homes in the Residential-Highway zoning district. Therefore, Adult Use and Entertainment Establishments shall meet all applicable requirements in the Town of Sharon Land Use Code and shall be designed to be as least intrusive as possible by using the following additional standards:

- i. Such use and parking area shall be adequately fenced and/or buffered (landscaping/berms) from any adjacent property and lighting shall be directed away from adjacent property and public highways.
- ii. Parking shall be located in the side or rear yard and no parking space may be located less than twenty-five (25) feet from any property line.
- iii. Any structure containing the Adult Use and Entertainment Establishment and any accessory structure shall have a residential appearance similar to existing dwelling units (excluding mobile homes) in the Town of Sharon. Building design shall avoid areas of blank wall sections and faux windows are encouraged to comply with display prohibition.

d. Display Prohibited

All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity”.

e. Penalties for Offenses

Any person, firm, corporation or entity found to be violating any provisions of this local law shall be subject to the provisions outlined in Part III Article VI, Section 26 of the Town of Sharon Land Use Code.

### **19. Light Industrial Facilities**

- a. The minimum lot area for any manufacturing uses shall be two (2) acres and the lot shall have no less than one hundred (100) feet of frontage on a county or State US Route 20. The manufacturing building shall be set back no less than one hundred (100) feet from any lot line.
- b. No sales to the general public shall be permitted from the premises.
- c. All uses, processes and storage shall be within a fully enclosed structure, and no tanks or other apparatus incidental to the processing or manufacturing shall be visible outside of a manufacturing building. The façade of buildings and structures shall be compatible with the rural character and adjacent development.
- d. The applicant shall submit a list of any other permits that may be required for the operation as well as a list of the goods and materials to be stored and manufactured.
- e. Parking shall not be permitted in the front yard.

- f. There shall be no glare emitted beyond the property boundaries. All lights shall use full cut-off shielded fixtures. The location and all on-site lighting shall be approved by the Planning Board.
- g. The Planning Board may require a wall, fence, landscaping or other buffer to be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width.
- h. The Planning Board may require a noise analysis, and if needed, noise mitigation to maintain the area's existing ambient noise levels.

## **20. Retail Business**

- a. General. It is not the intent of this section to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the zoning district and to ensure the compatibility of new structures within the existing district zoning. The standards established in this section are for the purpose of promoting quality development that is attractive, convenient and compatible with surrounding. These standards are intended to be general in nature and not to restrict creativity, variety or innovation. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals.
- b. Context and Compatibility. These standards and guidelines establish an expectation that new development is similar in context and compatible with existing development. Context and compatibility with respected neighborhood buildings can be judged by the following major points of comparison:
  - 1. Roof shapes, slopes and cornices are consistent with the prevalent types in the area.
  - 2. Rhythm of building spacing along the street and overall scale are not interrupted.
  - 3. Proportions for facades and window openings are in harmony with the traditional types within the district.
  - 4. Materials, textures, and colors are similar, with natural and traditional building materials preferred.
  - 5. Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area.

c. Building Placement and Scale

1. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, side walls or storage areas, face the street. Blank walls for commercial applications are discouraged but may be allowed at the discretion of the Planning Board under certain circumstances such as when the structure is along an alley or when facing another blank wall.
2. The front façade of the building shall be parallel to the main street unless traditional orientation of buildings on that street differs for the majority of buildings.
3. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from the all exposed (public) vantage points.
4. In order to minimize the apparent scale of buildings greater than 40' in width, facades facing the main street should be broken by periodic setbacks, façade breaks, and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas, window bays, separate entrances and entry treatments, or the use of sections that may project or be recessed may also be used.
5. Building Façades. Exterior materials of new construction shall be compatible with those traditionally used in the Town. The front facade of the principal building on any lot shall face onto a public street. When more than one building is proposed per parcel, monotony and similarity shall be minimized through use of changes in façade planes, use of porches, varying roof orientation, roof styles and articulation, building orientation, and trim detailing.

d. Utilities

1. In all non-residential and multi-family residential developments, the Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction.
2. All roof, wall or ground mounted mechanical equipment including, but not limited to, heating and air conditioning units, exhaust fans, etc., shall be completely screened or located inside the principal building. If visible from the public street, an adjoining property, or a public parking lot, exterior utilities shall be screened by use of a fence, earth berm, or hedge of sufficient height and density.

## 21. Airfield

- a. A minimum of 50 acres is required.
- b. There shall be a no-disturbance buffer located 200 feet of the property line to protect nearby neighbors.
- c. A site plan shall be provided to the Planning Board illustrating the runways, landing pad, location of overhead utilities, lighting, parking areas, and accessory buildings.
- d. An airspace analysis by the Federal Aviation Administration (FAA) for operation under visual flight rules shall be submitted with the application for a special use permit.
- f. Landing areas for rotary wing aircraft shall be designed to comply with the Airport Design Guide of the FAA and any State requirements.
- h. There shall be a finding by the Planning Board that such airport shall not cause a hazard to, or be detrimental to nearby properties and buildings, both in the Town and adjacent municipalities, considering the location of buildings in the vicinity of the airport and take-off patterns and lights.

## 22. Commercial Recreation

### **Recreational Facility (Indoor)**

- a. Parking shall not be permitted in the front yard.
- b. One or more recreational uses are allowed on a lot subject to Planning Board approval.
- c. The Planning Board may require that facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.
- d. Hours of operation. The hours of operation may be limited to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to adjoining uses.
- e. Site lighting. A lighting plan shall be provided and designed so as not to affect adjoining residential properties.
- f. Noise. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not likely disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general

demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. Public address systems are allowed.

- g. Waste. The site plan shall demonstrate that wastes, including runoff containing fertilizer, pesticides, as well as solid waste will be contained, treated and disposed of in accordance with applicable local, county, state and federal regulations.
- h. Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the approving Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community.

**Recreational Facility (outdoor)**

- a. No portion of any outdoor commercial recreation facility area shall be located closer than one hundred (100) feet to any property line. Parking shall not be permitted in the front yard.
- b. Consideration shall be given to locating outdoor facilities away from residential property lines. The Planning Board may require that these facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.
- c. Hours of operation. The hours of operation may be limited to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to adjoining uses.
- d. Site lighting. A site lighting plan shall be provided pursuant to this local law and designed so as not to affect adjoining residential properties. The Planning Board may approve a light fixture that exceeds the height for an outdoor recreation use provided it finds that there will be no detrimental impact on adjoining uses.
- e. Noise. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity and shall be prepared by a professional.
- f. Waste. The Site Plan shall demonstrate that wastes, including oils and gas, runoff containing fertilizer, pesticides, as well as solid waste will be contained, treated and disposed of as needed in accordance with applicable local, county, state and federal regulations. The Planning Board shall approve the location of any portable toilet device or other temporary waste disposal system that may be allowed in conjunction with an outdoor recreation facility.

- g. Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the Planning Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community

### **23. Golf Course**

- a. A special use permit shall be required to operate a golf course, including all uses and structures accessory thereto. No golf course shall be allowed in a flood plain. The following uses shall be permitted as accessory uses to a golf course: clubhouse (including dining rooms, common rooms, pro shop, social rooms, kitchen and locker rooms), snack bar/refreshment stand, a groundskeeper residence, putting greens, practice range, parking, maintenance facility, garage, cart storage facility, and water supply impoundments. The proposed golf course shall be integrated with any existing development and land uses adjacent to the site, including safe locations for golf holes (tees, holes and greens), and practice areas, as related to adjacent roads, residential development, and other neighboring improvements.
- b. Where a golf course site is adjacent to, or contains open water, watercourses, trails, flyways, and conservation areas, the applicant shall protect these areas and may be required to provide and maintain an adequately designed walking trail easement within the property open to the public in furtherance of the Town's goal of linking open spaces in the community. The pedestrian easement shall be located so it does not interfere with play and shall be appropriately isolated from the general operation of the golf course. The easement shall be held by the Town of Sharon, a land trust, or another non-profit environmental organization as allowed by New York State Law.
- c. Assurances shall be provided by the applicant that the necessary infrastructure and utilities, including sanitary disposal system, potable water and irrigation water are available from on-site municipal or private systems. The provision of infrastructure and utilities shall not have a detrimental impact on groundwater or surface water resources.
- d. The golf course shall have two safe and adequate access points from one or more public roads. One of the two accesses may be provided for emergency access only, if, in the determination of the Planning Board, said arrangement provides adequate access. The two means of access shall be connected internally and may be achieved by use of a stabilized surface sufficient to allow passage by emergency vehicles.
- e. Adequate provisions shall be made for solid waste collection and storage. All solid waste storage shall be adequately screened and buffered.

- f. Amplifier systems shall be designed so as not to be audible beyond the property lines.
- g. The number of parking spaces shall be as few as necessary to serve the golf course and accessory uses. The number shall be determined by a parking needs study to be conducted by the applicant and submitted at the same time as the special use permit application.
- h. A minimum vegetative buffer shall be maintained between any watercourse or wetland and any turf area which is to be treated chemically. The Planning Board shall retain an ecologist and/or other specialist(s) to review the plans and recommend appropriate buffer sizes which will depend on the specific nature of the watercourse or wetland to be protected. The buffer shall be of sufficient size and design to protect the surface water from chemicals carried by stormwater runoff. The Planning Board may consider alternative methods of protecting wetlands and water courses, e.g., diversion of runoff via swales, where it determines that said methods protect watercourses, wetlands and other natural water bodies.
- i. Adequate provisions shall be made by the golf course operator to handle the crowd generated by special events open to the public such as tournaments, and to satisfactorily mitigate off-site impacts including traffic management, parking, trash removal and waste disposal, security and safety and utility demand. The golf course may be required to post a performance guarantee for these purposes. All local permissions and permits required for a special event shall be obtained prior to the event.
- j. The course shall be designed, to the extent possible, in a manner that preserves existing woodland and wooded corridors. Clearance of woodland shall not exceed 50 percent of the total acreage of the lot on which the golf course shall be situated.
- k. Turf management and water quality. As part of the application for site plan approval, the applicant shall submit a turf management plan and an integrated pest management plan specific to the operation and maintenance of the proposed golf course. These plans shall be prepared in accordance with any guidelines established by the New York State Department of Environmental Conservation and shall also take into consideration guidelines established by the United States Golf Association. These plans must include best management practices to prevent or minimize adverse impacts of chemical applications on the groundwater and surface water resources to which the golf course contributes drainage.
- l. Assurances shall be provided that any adverse impacts on groundwater or surface water quality resulting attributable to the golf course will be mitigated.

The applicant shall provide for the monitoring of water quality of groundwater and surface water resources. The monitoring program, including the timing and frequency of testing and the identification of chemical parameters to be tested shall be established at the time the integrated turf management plan and integrated pest management plan are approved as part of the application. The applicant may be required to install permanent water quality monitoring devices to monitor water quality on an ongoing basis. The Planning Board and the applicant shall mutually agree to an independent consultant who shall be responsible for carrying out the monitoring program and the cost of the monitoring shall be borne by the applicant/owner of the golf course facility. The results and findings of any water quality monitoring shall be submitted by the owner to the Town to ensure compliance with the conditions of special use permit approval.

## **24. Solar Facilities**

### **A. Purpose and Intent**

1. The Town of Sharon recognizes that solar energy is a clean, readily available, and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The Town of Sharon has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses. This section aims to accommodate solar energy systems while balancing the potential impact on neighbors while preserving the rights of property owners to install solar energy systems. This section is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to be consistent with the Town of Sharon Comprehensive Plan; to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment, and on aesthetic qualities and character of the Town.
3. Intent; greater restrictions to prevail. It is not intended by this section to repeal, except as herein stated, abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this section imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits or by such easements, covenants or agreements, the provisions of this section shall control.

## B. Definitions

The following terms shall have the meanings indicated. The definitions contained in Article VII of the Town of Sharon Zoning Law shall also apply.

1. Building-Mounted Solar Energy System- A solar energy system that is affixed to the roof or side(s) of a building or other structure either directly or by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.
2. Ground-Mounted Solar Energy System- A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this local law.
3. Net-Metering – a billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.
4. Reflector, Solar- A device for which the sole purpose is to increase the solar radiation received by a solar collector.
5. Solar Access – Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of a solar energy system on individual properties.
6. Small-Scale Solar Energy System- Any solar energy system that cumulatively on a lot meets all of the following provisions:
  - (a) Is an accessory use or structure, designed and intended to generate energy primarily for a principal use located on site.
  - (b) Produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings beyond the lot. Small-scale solar energy systems located on a farm operation (as per AML §301(11) definition of that term) and located in a New York State Agricultural District can produce up to 110% of the farm’s needs as per the Department of Agriculture and Markets guidance document.
7. Solar Collector- A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or

other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other usable energy.

8. Solar Energy System - A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/ or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical structures.
9. Solar Sky Space- The space between a solar collector and the sun through which solar radiation passes.
10. Solar Panel – a device for the direct conversion of solar energy into electricity.
11. Solar Thermal System – A system that directly heats water or other liquid using sunlight.
12. Utility-Scale Solar Energy System or Solar Farm- Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy solely into a utility grid for sale to the general public.

### **C. Applicability**

1. The requirements of this section shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.
2. Solar energy system installations for which a valid building permit has been issued, or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.
3. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code.

### **D. Requirements for Small Scale Solar Energy Systems**

1. No small scale solar energy system shall be installed or operated in the Town except in compliance with this section.
2. The installation of a solar collector or panel, whether attached to the main structure, an accessory structure, or as a detached, free standing or ground

mounted solar collector are permitted as an accessory structure, shall meet all requirements of this sub-section (D), and shall require a building permit.

3. All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.
4. Setbacks for Solar Energy Systems by District: Solar collectors or panels are subject to the minimum setbacks, and other dimensions for whatever zoning district in which they are proposed to be installed. In addition, for installation of a ground mounted or free standing solar system located in a front yard, the front setbacks shall be 200' in all zoning districts.
5. Height limits for solar collectors mounted on buildings shall be five feet above the level of the permitted building height. Ground mounted or freestanding solar collector height shall not exceed 20 feet when oriented at maximum tilt.
6. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
7. Photovoltaic systems that are integrated directly into building materials such as roof shingles, and that are a permanent and integral part of and not mounted on the building or structure are exempt from the requirements of this article. However, all applicable building codes shall be met and necessary permits obtained. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered exempt or not.
8. In order to ensure firefighter and other emergency responder safety, except in the case when solar panels are installed on an accessory structure less than 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and pathways to provide space on the roof for walking around all solar collectors and panels.
9. Free standing or ground mounted solar collectors are permitted as accessory structures in all zoning districts of the Town subject to the following additional conditions:
  - a. In the R and R-C Districts, a lot must have a minimum size of 40,000 square feet in order for a ground-mounted or free standing solar system to be permitted.
  - b. Screening shall be provided when practicable from adjoining lots through the use of architectural features, earth berms, landscaping, fencing, or other

screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.

- c. The total surface areas of all ground mounted and freestanding solar collectors shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, not including patios and decks.

## **E. Solar Farms/Utility-Scale Solar Energy Systems**

### **1. Applicability**

- a. Any utility-scale solar energy system erected, constructed, modified, or operated in the Town of Sharon after the effective date of this local law shall be in compliance with this Section. Subsection E is applicable to utility-scale solar energy systems and shall not apply to small-scale solar energy systems, as defined herein.
- b. A special use permit and site plan review by the Planning Board shall be required for all utility-scale solar energy systems. Such systems are prohibited from the R zoning district and are prohibited from the R-C district in the Town of Sharon.
- c. In order to promote innovative design and encourage the inclusion of alternative energy systems within the overall design of a building, solar energy systems determined by the Code Enforcement Officer to be building-integrated photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this section. BIPV systems are still required to meet applicable building codes and obtain all necessary permits. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered a BIPV system.

### **2. Applications, Permits and Approvals Required and Applicable Zoning Districts**

- a. All applications for utility-scale solar energy systems shall be accompanied by an application for special use permit and site plan review, and all applicable fees as may be established by the Town Board. Both site plan and special use permit reviews and approvals are required. The Planning Board shall however, concurrently review the site plan and special use permit applications.
- b. All applications for utility-scale solar energy systems shall include the following:

- (1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
- (2) An electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices identified.
- (3) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.
- (4) Plan for clearing and/or grading of the site.
- (5) A storm water pollution prevention plan as per NYS DEC requirements to detail storm water runoff management and erosion control plans for the site.
- (6) Documentation of utility notification, including an electric service order number.
- (7) Decommissioning plan and description of financial surety that satisfies the Town that all required improvements shall be made for utility-scale systems only. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.
- (8) The Town shall require any applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and the review required under SEQRA to the Town Clerk. When the Planning Board determines that a review will require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, such payment shall be made prior to commencement of any further Planning Board review.
- (9) Photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and

dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components.

(10) Part I of the Full Environmental Assessment Form filled out.

(11) Details of the proposed noise that may be generated by inverter fans. The Planning Board shall require a noise analysis to determine potential adverse noise impacts.

### **3. General Provisions**

All applications for utility-scale solar energy systems shall be in accordance with the following:

- a. All utility-scale solar energy systems shall adhere to all applicable Town of Sharon building, plumbing, electrical, and fire codes.
- b. A minimum parcel size of 15 acres is required for utility-scale solar energy systems.
- c. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Sharon or other federal or state regulatory agencies. Applicants shall use the adopted Town of Sharon Comprehensive Plan, including Appendix E and the Composite Map showing sensitive environmental features along with other site information to identify and describe how the proposed utility scale solar energy system shall avoid or mitigate adverse impacts to these resources. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands, or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided.
- d. There shall be a minimum 100 foot buffer between any component of the utility-scale solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land uses.
- e. Any site containing a utility-scale solar energy system shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 8 ½ feet.
- f. Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale solar facility may be permitted, provided the percentage of newly cleared land on any parcel does not exceed 30% of the existing woodlands on that parcel.

- g. Solar arrays and agriculture. In accordance with the Comprehensive Plan, the Town of Sharon does not support conversion of productive farmland to support grid-supply facilities. When proposed on an active farm located within the New York State Certified Agricultural District in Sharon, a utility-scale solar energy system may occupy up to 20% of any farmed parcel but in no case shall exceed 10 acres. Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or NRCS.
- h. Native grasses and vegetation shall be maintained below the arrays.
- i. The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from:
  - (1) Publicly dedicated roads and highways, including Route 20 and 10;
  - (2) Existing residential dwellings located on contiguous parcels;
  - (3) A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of fully screening the site, shall be provided.

(Photo of suggested landscape screen on file in Zoning Office)

- j. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
- k. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
- l. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

- m. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
  - n. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations. The manufacturers or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.
  - o. The average height of the solar panel arrays shall not exceed fifteen feet.
  - p. Due to the need to keep the solar skyspace for solar energy systems free from obstructions, the Planning Board may recommend modifying the landscaping requirements on an adjacent parcel when it is subject to a site plan or special use permit request to ensure that any landscaping proposed there is low-growth vegetation that will not obstruct the solar skyspace at mature height.
  - q. Following construction of a large-scale or utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust.
  - r. Special use permits granted for utility-scale solar energy systems shall be assignable or transferable to future landowners of that system on the approved parcel so long as they are in full compliance with this article and all conditions, and the Code Enforcement Officer is notified of the property transfer at least 15 days prior thereto.
  - s. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this article.
  - t. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.
- F. Abandonment or Decommissioning Of Utility-Scale Systems
- a. Utility-scale solar energy systems which have not been in active and continuous service for a period of 1 year shall be removed at the owner's or operator's expense. Decommissioning shall include removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation. The Planning Board shall require a bond, placed in an escrow account and in an amount

satisfactory to the Town, to ensure the removal of any utility-scale solar facility. In the event that the facility is not removed within one year and the site restored as required, the Town, after notice and hearing, may cause the same to be removed and the site restored using the funds in such escrow account.

- b. All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored to its preexisting condition within six months of the removal of the solar energy system.

## **25. Wind Facilities**

### **A. Purpose**

The purpose of the law is to provide for the construction and operation of Wind Energy Facilities in Town of Sharon, subject to reasonable conditions that will protect the public health, safety and welfare.

### **B. Applicability**

The requirements of this law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this law, including modification of existing Wind Energy Facilities and wind measurement towers erected for the purpose of testing the feasibility of wind energy generation.

### **C. Permits**

1. Permit Requirement. No Wind Energy Facility shall be constructed, reconstruct- ed, modified, or operated in the Town of Sharon except by first obtaining a Wind Energy Facility Permit as provided under this law.
2. Exemptions. No permit or other approval shall be required under this law for mechanical, non-electrical wind turbine utilized solely for agricultural operations. Replacement in-kind or modification of a Wind Energy Facility may occur without Planning Board approval when: (1) there shall be no increase in total height; (2) no change in the location of the wind turbine; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the wind turbine.
3. Transfer. Neither transfer of any Wind Energy Facility or Wind Energy Facility Permit, nor sale of the entity owning such facility shall eliminate the liability of an applicant or of any other party under this law.

### **D. Waivers**

The Planning Board may, after a public hearing (which may be combined with other public hearings on wind energy facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this law to improve the quality of any Wind Energy Facility and better protect the health, safety and welfare of the Town. Area requirements (set-backs) and/or noise requirements shall not be waived by the Planning Board except as described in Section L of this section of this law. The Planning Board shall consider the impact of the waiver on the neighborhood, including the potential benefits or detriment to nearby properties, the benefits or detriments to the applicant, feasible alternatives and the scope of the request. The Planning Board may attach such conditions as it deems appropriate to waiver approvals to ensure public health, safety and welfare.

#### **E. Enforcement and Penalties**

1. The Town of Sharon Town Board shall designate a Code Enforcement Officer to enforce the provisions of this law and may employ such professional expertise as may be necessary to support these enforcement efforts and assist the Planning Board with application reviews. Such professional fees shall be the responsibility of the applicant to pay (see Section T).
2. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this law or in noncompliance with the terms and conditions of any permit issued pursuant to this law, or any order of the Code Enforcement Officer, and any person who shall assist in so doing, shall be guilty of a violation of this law and subject to a fine of not more than \$1,000.00. The Town may institute a civil proceeding to collect civil penalties in the amount of \$1,000.00 for each violation and each week said violation continues shall be deemed a separate violation.
3. The Town may, in the case of any violation or threatened violation of any of the provisions of this law, including permit terms and conditions, institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use and to restrain, correct or abate such violation, to prevent the illegal act. This shall be in addition to other remedies and penalties herein provided,

#### **F. Definitions**

As used in this law, the following terms shall have the meanings indicated:

ACCESSORY FACILITIES OR EQUIPMENT – Any structure other than a wind turbine, related to the use and purpose of deriving energy from such towers, located on the Wind Energy Facility Site.

AGRICULTURE – The Town of Sharon’s definition for the purposes of this law complies with the official New York State Agriculture and Markets legal definition relating to agriculture. This definition can be found at the following website <http://public.leginfo.state.ny.us/LAW>. The informational guide created by Agriculture and Markets titled “Guidelines for Review of Local Laws Affecting Small Wind Energy Facilities” is available for review from the Town of Sharon Code Enforcement Officer.

AMBIENT SOUND – The background sound level (pre-development) found to be exceeded 90% of the time over which sound is measured in a noise analysis.

DECOMMISSIONING – The term shall mean to “physically remove” and shall include, but not be limited to:

- a. Removal of the entire Wind Energy Facility, including the turbine, tower, all accessory facilities and equipment, transmission equipment, fencing and all other related above grade structures and improvements.
- b. Removal of the foundations to a depth of no less than three (3) feet below grade.
- c. Removal of project access roads (except for any roads that the project landowners wish to retain).
- d. Restoration of the location of the Wind Energy Facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.

NYSERDA – (NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY) NYSERDA is a public benefit corporation created in 1975 under Article 8, Title 9 of the State Public Authorities Law through the reconstitution of the New York State Atomic and Space Development Authority. Its mission is to help New York meet its energy goals: reducing energy consumption, promoting the use of renewable energy sources, and protecting the environment.

NYISO – (NEW YORK INDEPENDENT SYSTEM OPERATOR) - NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and non-discriminatory wholesale market for electricity in New York State.

RESIDENCE - Any dwelling suitable for habitation existing on the date an application is received. A residence may be part of a multi-family dwelling or multipurpose building, and shall include buildings such as hotels or motels, hospitals, day care

centers, dormitories, sanitariums, nursing homes, municipal buildings, schools or other buildings used for educational purposes, or correctional institutions.

SHADOW FLICKER – the visual effect of viewing the moving shadow of the Wind Energy Facility rotor blades when they are in apposition between the receptor (person viewing them) and the sun and/or the “strobe” lighting effect of this condition as perceived by the receptor either directly or indirectly (as in a reflection off a light colored wall).

SITE - The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said facility or a setback agreement shall not be considered off-site.

SOUND PRESSURE LEVEL - According to the NYSDEC Program Policy on Assessing and Mitigating Noise Impacts, sound pressure level is the sound pressure in the atmosphere, which pressure is expressed in decibels. The sound pressure is measured by the sound level meter satisfying the requirements of the American National Standards specification of sound level meter, S1.4-1971, according to a frequency-weighted decibel scale. The sound pressure can be determined according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedure. Also, the perceived loudness of a sound as expressed in decibels (db). For example, the A-weighted decibel scale dB(A) represents those frequencies most readily audible to the human ear. The C-weighted decibel scale dB(C), approximates response of the human ear to low-frequency sounds. The G-weighted decibel scale dB(G) is designed for infrasound.

TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the wind turbine rotor plane.

TRANSMISSION OWNER - The owner of the electric distribution networks. Examples include New York State Electric & Gas, National Grid, and Con Edison.

VIEW SHED – The area contained within a 5-mile radius of the WECS.

VERTICAL AXIS – The vertical orientation of the rotation of the rotor cage on a WECS.

WIND ENERGY CONVERSION SYSTEMS – WECS - Any wind energy conversion systems consisting of any wind turbine, vertical or horizontal axis wind turbines, wind measurement tower or combination of these, including all but not limited to related infrastructure, electrical lines and substations, access roads and accessory structures or equipment.

WIND ENERGY FACILITY – Any wind turbine, small wind turbine or wind measurement tower or combinations of these, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY FACILITY PERMIT- A permit pursuant to this law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

WIND MEASUREMENT TOWER - A temporary tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

WIND TURBINE (SMALL) - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25kW and which is intended primarily to reduce consumption of utility power at that location.

## **G. Application Requirements**

A complete application for a Wind Energy Facility Permit shall include:

1. A completed application for a Wind Energy Facility Permit.
2. A site plan prepared by a licensed professional engineer, including:
  - a. Property lines and physical dimensions of the Site;
  - b. Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbines, or 1½ times the total height of such wind turbines, whichever shall be greater.
  - c. Location and elevation of each proposed wind turbine.
  - d. Location of all above and below ground utility lines on the Site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.
  - e. Locations of buffers as required by this law.
  - f. Location of the nearest residential structure(s) on the Site and located off the Site, and the distance from the nearest proposed wind turbine.

- g. All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.
3. View Shed Rendering - A vertical drawing of the wind turbine showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each wind turbine of the same type and total height. The make, model, picture and manufacturer's specifications, including noise decibels data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine. A visual analysis of the turbine/s as installed, which includes a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. These vantage points will be determined by the Planning Board based on a site map to include a topographical and aerial simulation.
  4. A lighting plan showing any FAA-required lighting and other proposed lighting. Lighting shall be directed up and out, not down.
  5. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board on the recommendation of its Town Engineer or consultants.
  6. A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
  7. An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.
  8. A decommissioning plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the Site restored, less any fencing or residual minor improvements requested by the landowner.
  9. List of property owners, with their mailing address, within 2,000 feet of the outer boundaries of the proposed Site.
  10. A complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint, not to exceed sixty (60) days.

11. A transportation plan (see Section K) describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures which will be taken to restore damaged/disturbed access routes following construction.
12. A Full Environmental Assessment Form (EAF), as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the Wind Energy Facility. This Full Environmental Assessment shall, at a minimum, include:
  - a. A study of potential shadow flicker, including a graphic to identify locations where shadow flicker may be caused by the wind turbines and expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures to be taken to eliminate shadow flicker problems. If shadow flicker impacts are of either high intensity or duration (more than 25 hours per year), then a second level analysis of shadow flickers modeling will occur, including an on-site assessment of property conditions.
    - i. If shadow flicker cannot be minimized to a shorter duration or intensity, project modifications may be required. It is desirable to have no shadow flicker on off-site residences.
  - b. A visual impact study and its impact to the view shed with the proposed wind turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the Site accurately depicting existing conditions shall be included as well as a map indicating areas where the wind turbines will be visible to a person at five (5) feet above ground level. The visual analysis shall also indicate color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.
  - c. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Site, as well as Schoharie County Emergency Service including but not limited to fire coordinator, emergency management, sheriff.
  - d. A noise analysis by a competent acoustical consultant including:
    1. A description and map of the project's noise-producing features which will include but not be limited to the range of noise levels expected (A-weighted, C-weighted and G-weighted), the tonal and frequency characteristics expected, the duration of sound, frequency of occurrence, and the effects of changes in wind speed and direction;

2. The manufacturer's data and standards for all structures, including designed noise levels and the noise levels determined by testing in the field;
  3. A survey and report prepared by an independent, qualified, New York State engineer that analyzes the preexisting ambient noise including seasonal and twenty-four (24) hour variations at residences within one (1) mile of the Site boundary;
  4. The analysis must be accompanied by a topographic map showing, in increments of 5 decibels out to a level of 20 decibels, the noise level contours of the Site vicinity, in order to visualize the cumulative noise impacts from the Wind Energy Facility on surrounding properties. All residences within the greater of one (1) mile of the Site boundary or the twenty (20) decibel contour shall be clearly shown;
  5. Where noise can carry far and in unexpected directions, the study must consider sounds carried from hilltop to hilltop, hilltop to valley, and along valleys in a radius of ten miles from a Wind Energy Facility.
    - i. The study must also produce an analysis of cumulative noise impacts; and
  6. The applicant shall submit a design for post-development noise monitoring as well as a description of proposed noise control features, including specific measures to protect workers, and to mitigate noise impacts to a level of insignificance off-site. A summary of the applicant's proposed noise complaint resolution program must be included.
- e. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, 911 and other wireless communication by an independent contractor as determined by the Planning Board with the applicant paying all fees.
  - f. An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species and bat species. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must at a minimum consist of a literature survey for threatened and endangered species and provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for post-installation studies.

- g. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related to but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase including construction of access roads.
  - h. An assessment of archaeological resources that may be impacted by the project. Such assessment shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation.
  - i. A report from an independent New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade could be thrown. (The basis of the calculation and all assumptions must be disclosed). The incidence of reported ice and blade throws and the conditions at the time of the ice and blade throw must be included.
  - j. An assessment, pre- and post-installation, of possible stray voltage problems on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.
  - k. A geotechnical report that includes:
    - soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing
    - a bedrock profile within one (1) mile of the Site
    - information on depth of well, average flow rate, and with permission by owner, test of water quality for all wells within two (2) miles of the Site
    - grading criteria for ground preparation, cuts and fills, soil compaction
    - a slope stability analysis
13. A statement signed under penalties of perjury that the information contained in the application is true and accurate.

## **H. Application Review Process**

1. Applicants must arrange a pre-application meeting with the Planning Board and the professional consultants retained by the Town for application review. The applicants will be responsible for any expenses incurred for this meeting with consultants.
2. Ten copies of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of submission.

3. The Planning Board shall, within 45 days of receipt, or such longer time as may be accepted by the applicant, determine if all information required hereunder is included in the application. If the application is deemed incomplete, the applicant shall be provided with a written statement listing missing data. If applicant fails to provide data within 45 days, the application shall expire. Upon submission of a complete application, the Planning Board shall proceed with its review.
4. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, no less than 14 nor more than 31 days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication shall be required. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers. All property owners within two thousand (2,000) feet of the property lines of a proposed Wind Energy Facility shall be given notice of a public hearing via certified mail at the expense of the applicant.
5. Notice of the project shall also be given, if applicable, to the Schoharie County Planning Commission, as required by General Municipal Law §239-m.
6. Following receipt of the recommendation of the Schoharie County Planning Commission (if applicable), the holding of the public hearing, and completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the Wind Energy Facility Permit application, in accordance with the standards in this law. The Planning Board may also impose financial guarantee and inspection requirements and require permit renewals. Any denial shall be in writing setting forth competent reasons for such denial with references to relevant sections of this law.

## **I. Wind Energy Facility Development Standards**

The following standards shall apply to Wind Energy Facilities in the Town of Sharon.

1. All power transmission lines from the tower to any building, substation, or other structure shall be located underground in accordance with National Electrical Code Standards.
2. No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Planning Board. Applications may be jointly submitted for wind turbine and telecommunications facilities.
3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
4. No tower shall be lit except to comply with Federal Aviation Administration

(FAA) requirements. Minimum security lighting for ground level facilities shall appear on the Wind Energy Facility development plan indicating the direction of lighting and must be approved by the Planning Board or their consultants.

5. All applicants shall use measures to reduce the visual impact of wind turbines to the greatest extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind turbines within a multiple wind turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Planning Board in the form of a waiver.
7. No wind turbine shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific wind turbine or wind turbines causing the interference.
8. All construction debris shall be removed from the Site and disposed of in a legal manner under County & local waste management regulations and re-cycling methods.
9. Wind turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Wind Power Projects published by the New York State Department of Agriculture and Markets.
10. Wind turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
11. Storm water run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations and such standards as shall be applied by the Planning Board on the advice of the Town Engineer and other Town consultants.
12. Wind turbines shall be located in a manner that minimizes shadow flicker on off-site residences. It is desirable to have no shadow flicker on off-site residences.

13. Color: WECS shall be a non-obtrusive reflecting color. Galvanized steel or metal is acceptable for the support structures. The painting or coating shall be kept in good repair for the life of the wind turbine.

#### **J. Required Site Safety Measures**

1. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades and turbine components.
2. Accessory facilities or equipment shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.
3. Warning signs with a minimum size of 2 sq. ft. shall be posted at the entrances to the wind energy facility and at the base of each tower warning of electrical shock or high voltage and must containing emergency contact information.
4. No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
5. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.
6. Wind Energy Facilities shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

#### **K. Traffic Routes and Road Maintenance**

1. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility.
2. A public improvement bond shall be required prior to the issuance of any building permit in an amount, determined by the Planning Board, sufficient to compensate the Town, Village, County or State for any damage to Town, Village, County or State roads if any of these roads will be among the designated traffic routes. The applicant shall consult with the Town Highway Superintendent and/or the Schoharie County Department of Public Works and/or the State Department of Transportation to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board.
3. The applicant shall provide pre-development and post-development

photographic evidence of the condition of any Town, Village, State or County roads along the proposed route. These photos will be submitted to the Planning Board prior to the start of the project and also at the completion of the project for review.

#### **L. Setbacks & Noise**

1. Each wind turbine shall be set back as follows:

Residences: a distance no less than the greater of (a) two (2) times its total height or (b) one thousand (1,000) feet.

Property lines: a distance no less than one and a half (1.5) times its total height.

Public Roads: a distance no less than the greater of (a) one and a half (1.5) times its total height or (b) five hundred (500) feet.

State Wetlands: a distance no less than one thousand five hundred (1,500) feet.

2. The statistical sound pressure level generated by a Wind Energy Facility shall not exceed the ambient decibel level, both A-weighted and C-weighted, plus 5 decibels measured anywhere along the Site boundary. Ambient sound level measurements shall employ all practical means to reduce or compensate for the effect of wind generated noise artifacts at the microphone so as to measure the actual sound level most accurately. Ambient sound level measurements should be performed when wind velocities aloft are sufficient to allow wind turbine operation and should report ambient sound levels for wind speeds aloft corresponding to turbine cut-in as well as the wind speed aloft corresponding to production of the greatest noise. The sound pressure level at any off-site residence shall not exceed ambient sound plus 5 decibels, both A-weighted and C-weighted, as determined in accordance with the stipulations of Section 11(L)(4) of this local law. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement.

#### **M. Noise and Setback Waiver**

1. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established in this Local Law as it existed at the time the Wind Energy Permit is granted, a waiver may be granted from such requirement by the Planning Board.
2. Such waiver shall be in the form required for the filing of deeds and the waiver shall be filed in the County Clerk's Office. The waiver shall include a statement

of findings made by the Planning Board and all conditions required by the Planning Board for the issuance and continuation of the waiver. Such variance shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the decommissioning of the benefited wind turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the wind turbine. No such waiver shall permit noise levels at any other location with- in or outside the areas prescribed to exceed the limitations of this law.

#### **N. Issuance of Wind Energy Facility Permits**

1. The Planning Board shall, within 120 days of determining the application is complete, and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended for another **sixty (60) days** at the request of the applicant and/or the Planning Board deems it necessary for additional information, to seek expert and/or legal advice or other legitimate reasons.
2. Upon written approval, the Planning Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions for the permit and upon compliance with the New York State Building Code.
3. The decision of the Planning Board shall be filed within **fifteen (15) days** in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
4. If any approved Wind Energy Facility is not substantially commenced within **two (2) years** of issuance of the Wind Energy Facility Permit, the Wind Energy Permit shall expire, unless the Planning Board shall have granted an extension.

#### **O. Abatement**

1. If any wind turbine remains inoperative for a continuous period of **twelve (12) months**, the owner shall remove said system at owner's expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the owner demonstrates to the Town Board that it has been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town Board's ability to order a remedial action plan after public hearing.
2. Lack of operation may be proven by reports to the Public Service Commission,

the New York State Energy Research and Development Authority (NYSERDA), New York Independent System Operator(NYISO), or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Planning Board all reports to and from the purchaser of energy from individual wind turbines, if requested and necessary to prove the wind turbine is functioning, which reports may be edited as necessary to protect proprietary information.

3. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town of Sharon, in a form approved by the Town Board for the removal of inoperable towers and appurtenant facilities, in an amount to be determined by the Town Board, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.

#### **P. Limitations on Approvals**

Nothing in this law shall be deemed a guarantee against any future construction or Planning Board approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

#### **Q. Permit Revocation**

1. The applicant shall fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Code Enforcement Officer in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Wind Energy Facility Permit and this law and shall also include an evaluation of any complaints received by the Town Board and Code Enforcement Officer. The applicant shall have 90 days after written notice from the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer for review, but the total period may not exceed 180 days.
2. A wind turbine shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind turbine become inoperable, or should any part of the wind turbine be damaged or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The applicant shall have 90 days after written notice from

the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer, but the total period may not exceed 180 days.

3. Should a wind turbine not be repaired or made operational or brought into permit compliance after said notice, the Town Board may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, order either remedial action within a particular timeframe, or order revocation of the Wind Energy Facility Permit for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Town Board shall have the right to use the security posted as part of the decommission plan to remove the wind turbine.

#### **R. Wind Measurement Towers**

Installation of wind measurement towers, also known as anemometer towers, shall be permitted, upon the issuance of a Wind Energy Facility Permit, to determine the wind speeds and the feasibility of using particular sites. The distance between a wind measurement tower and the property line shall be at least 1½ times the total height of the tower. Wind Energy Facility Permits for wind measurement towers shall be issued for a period of two years and shall be renewable upon application to the Planning Board. An application for a wind measurement tower shall include:

1. Name, address, telephone number and signatures of the applicant and agent for the applicant, if any.
2. Name, address, telephone number and signature of the property owner along with written authorization by the property owner to submit the application.
3. Proposed development plan.
4. Decommissioning plan, including a security bond for removal, should the tower not be converted to permanent use for wind energy generation.

Other development standards as set forth above for Wind Energy Facilities shall be applied to the maximum extent practicable, as determined by the Planning Board; recognizing the temporary nature of wind measurement towers.

#### **S. Small Wind Turbines**

The Planning Board is hereby authorized to approve, approve with conditions, or disapprove small wind turbine applications designed for residential, farm, institutional and business use on the same parcel. Such applications shall be

processed in the same manner as those prescribed above for all wind energy facilities, but may be appropriately modified by the Planning Board to reflect the scale of the proposed facility. All small wind turbines shall comply with the following standards and with all other requirements of this law not in conflict herewith:

1. A system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application
2. Small wind turbine shall be used primarily to reduce the on-site consumption of electricity.
3. Total heights shall be a maximum of 100 feet on parcels between one and five acres and 150 feet or less on parcels of five or more acres.
4. A small wind turbine shall be set back one and one-half (1.5) times the height of the tower
5. The maximum combined turbine power output is limited to 25kW.
6. Tower-climbing apparatus shall be located no closer than 12 feet from the ground, a locked anti-climb device shall be installed on the tower or a locked, protective fence of at least six feet in height that encloses the tower shall be installed to restrict tower access
7. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from the ground up to a minimum of eight feet.
8. If any wind turbine remains inoperative for a continuous period of twelve (12) months, the owner shall remove said system at owner's expense following the requirements of the decommissioning plan.
9. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the owner demonstrates to the Town Board that it has been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town Board ability to order a remedial action plan after public hearing.

## **T. Fees**

1. The Town Board shall, by resolution, establish and from time to time modify a schedule of fees for Wind Energy Facility Permit applications.

2. The Planning Board may hire any consultant and/or expert necessary to assist the Code Enforcement Officer in reviewing and evaluating the application, including but not limited to Site inspections, the construction and modification of the Site, once permitted, and any requests for recertification. An applicant shall deposit with the Town Board funds sufficient to reimburse the Town Board for all reasonable costs of consultant and expert evaluation and consultation to the Town Board in connection with the review of the application.
3. The initial deposit for large turbine shall be \$7,500 per project and shall be placed with the Town of Sharon preceding the pre-application meeting. The Town of Sharon shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town of Sharon for their services on a monthly basis, which amounts will be charged to the escrow account with notice to the applicant. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the Town Board, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the Town of Sharon **before** any further action or consideration is taken on the application.
4. Should the amount held in escrow by the Town Board be more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds required for these services may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of construction.
5. Fees are based on the current Town of Sharon Building Permit Fee Schedule. Fees for all small wind turbines will be determined by this same Schedule.

#### **U. Tax Exemption**

The Town Board hereby reserves the right to opt out of the tax exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

#### **26. Horses on Public Roads and Streets**

There shall be a properly fitted manure collection device securely in place on all horses or other large animals while such animals are on any public road or street in the Town of Sharon. The sole exception of this requirement shall be for special events when cleanup crews are provided as a part of the event.

## **ARTICLE V –SPECIAL USE PERMITS and SITE PLAN REVIEW**

### **Section 21 - Site Plan Review**

- A. All uses requiring a special use permit shall also, as part of the review, receive site plan approval. As such, the Planning Board shall ensure that they conduct the site plan review and special use permit review at the same time.
- B. Application Materials for site plan. The applicant shall fill out and submit the ‘Application for a Special Use Permit/Site Plan Review’ form. Any application for a site plan review and special use permit shall be made in writing. The application and required information shall be delivered to the Code Enforcement Officer at least ten (10) days prior to the date of the next regular meeting of the Planning Board. Seven copies of the application and required information as set forth below shall be submitted.
1. Where the proposed use involves only the interior conversion or renovation of an existing structure or the addition or alteration of an accessory building, the Board shall require as a minimum, the following items of information:
    - a. Application with name and address of property owner and applicant, existing zoning district, tax map number and description of type and extent of proposed use.
    - b. Sketch Plan as set forth in Appendix A, drawn to scale in ink on minimum sheet size of 8 1/2" X 11" showing lot size, placement of principal and accessory buildings and relationship to adjoining parcels and buildings thereon, location of required parking and any alterations to the site.
  2. Where the proposed use involves a new or additional principal structure or exterior structural renovation of such principal building, or any significant change in the use or configuration of the site, the Board may require as a minimum, those pertinent items of information, and in the form, set forth under Preliminary Plat/Plan in Appendix A of this Code.
  3. In any instance where the size, location, nature or complexity of the proposed use is such that more detailed plans or specifications are necessary for a complete understanding of the application, the applicant shall be notified that all or portions of the information set forth under Final Plat/Plan in Appendix A will be required as well as any further information that the Board may specify.
  4. The application must also include an Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act, Part 617 (SEQRA). No application shall be deemed complete until a Determination of No Significance has been made, or until a Draft Environmental

Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

5. FEES. Fees for the site plan/special use permit application shall be in accordance with any fees established by the Town of Sharon. All application fees are in addition to any required escrow fees as may be established by the Town Board.
6. EXPENSES. The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6NYCRR Part 617.13. The Planning Board may also incur other extraordinary expenses in order to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application. All reasonable fees shall be charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit. The amount so determined by the Planning Board shall be deposited by the applicant in escrow with the Town Clerk. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible, the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit be approved until such sums have been paid in full.

C. PRE-APPLICATION REVIEW.

1. Prior to submission of a formal application, applicants are encouraged to meet with the Code Enforcement Officer to review submission requirements. Applicants are also encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any issues early in the application process.

2. A pre-application conference with the Planning Board is required during the conceptual design process to reduce the review time of formal consideration of proposed site plans and special use permits. The first meeting between the applicant and the Planning Board shall consist of an informal conference to review the conceptual site design (sketch) plan. The Planning Board's preliminary consultation shall be limited to a review of the basic concept of the proposal to resolve problems with meeting requirements which might occur during formal consideration and to determine what detailed application materials will be required. The sketch plan submittals shall include information from Appendix A, Section I.

At the pre-application conference, the Planning Board shall determine if the project is a minor or major project. The Planning Board shall make its determination based upon review of the project's scope and the basic land use and site design concept, as shown by a sketch plan drawn to scale and accompanying statements provided by the applicant and describing, at a reasonable level of detail, what is proposed pursuant to Appendix A, Section I.

At the pre-application conference, the Planning Board shall take one of three actions:

- a. Determine that the project is a minor project. Applications that are major site plans and requiring special use permits are not eligible to be reviewed through a minor site plan process. If a project is deemed a minor site plan, the Planning Board shall follow Section 20 (C) (6). The Planning Board shall also determine if the minor site plan application requires an environmental review pursuant to SEQR Part 617,
  - b. Determine that the project is a major project and does require full review under this section, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of special use and site plan submission requirements in accordance with Section 20 of this Zoning Law.
  - c. Require additional sketch plan information prior to making a determination regarding the applicability of the site plan review and approval procedure.
3. AREA VARIANCE. Notwithstanding any provision of law to the contrary, where a proposed Special Use Permit contains one or more dimensional features which do not comply with the zoning Law, application may be made to the Zoning Board of Appeals for an area variance, without the necessity of a decision or determination by the administrative official charged with the enforcement of Zoning Law.
  4. USE VARIANCE. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.

5. WAIVERS. The Planning Board may find that some requirements of this Section are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application or are inappropriate to a particular special use application. In such cases, the Planning Board may, in its sole discretion, waive any requirements for the approval, approval with modifications, or disapproval of proposed special uses submitted provided such a waiver does not prevent or circumvent the purposes and intent of any Town of Sharon law or regulation or the Comprehensive Plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the special use permit application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board.

#### D. MINOR SITE PLAN REVIEW

1. The Planning Board shall, at the first regularly scheduled meeting held after determining that an application is a minor site plan shall begin the review process. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating application deficiencies. No minor site plan application shall be deemed complete until the application form, fee, and sketch and site plan information as may be required by the Planning Board has been accepted by the Planning Board, and if SEQR is required, either a negative declaration or acceptance of a draft Generic Environmental Impact Statement.
2. Once a complete Minor Site Plan Application has been received, the Planning Board shall conduct its review, and may render a decision in one meeting or the need for a Public Hearing shall be at the discretion of the Planning Board. If the application is deemed complete, the Planning Board shall conduct its review and render a decision on the minor site plan at the first regularly scheduled meeting held after submission of the abbreviated site plan application to the Planning Board. The Planning Board's action shall be in the form of a resolution stating whether the minor site plan is approved, disapproved or approved conditionally with modifications. Any modification required by the Planning Board shall be considered a condition for issuance of a building permit. If the minor site plan is disapproved, the Planning Board's resolution will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.
  - a. Approval. Upon approval of the minor site plan and payment by the applicant of all fees due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file a copy of the approved resolution approving the minor site plan with the

Code Enforcement Officer. A copy of the written statement of approval shall be mailed to the applicant. Upon approval of the minor site plan, the applicant shall be eligible for applying for a building permit.

- b. Approval with Modifications. The Planning Board may approve the minor site plan and require that specific modifications or conditions be made. A copy of the resolution of approval containing the modifications required by the Planning Board shall be mailed to the applicant and filed with the Town Clerk and the Code Enforcement Officer. The Code Enforcement Officer shall not issue a building permit until the modified minor site plan has been reviewed and certified by the Code Enforcement Officer that the plan reflects modifications as required by the Planning Board.
  - c. Disapproval. The Planning Board shall make a resolution if its decision is to disapprove the application. The resolution shall set forth the reasons for the Joint Board's decision not to approve the application. Upon disapproval of the site plan, the Planning Board shall, within seven (7) business days, file the resolution with the Town Clerk and Code Enforcement Officer. No building permit shall be issued when an abbreviated site plan has been disapproved.
- E. PUBLIC HEARING REQUIRED. Within sixty-two (62) days of receipt of a complete application for any special use and site plan, except for minor site plan applications, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing. The Planning Board shall send, or cause to be sent, notice of the Public Hearing to abutting property owners and those agricultural operators identified on the Agriculture Data Statement by certified mail, return receipt requested at least seven (7) days prior to the public hearing.
- F. REFERRALS. Notice to Applicant and Schoharie County Planning Commission. At least ten (10) days before such hearing, the Planning Board shall mail such notices thereof to the applicant and to the Schoharie County Planning Commission as required by Section 239-m of the General Municipal Law, which shall be accompanied by a full statement of such proposed action. The Schoharie County Planning Commission shall have thirty (30) days to review the full statement of the proposed action. If the County Planning Commission fails to report within 30 days, the Planning Board may take final action on the proposed action without such report. However, the County Planning Commission report recommending modification or disapproval of a project and which is received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the Planning Board, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

The County referral shall apply to real property within 500 feet of the following:

- 1. The boundary of any village or town; or

2. The boundary of any existing or proposed county or state park or other recreation area; or
3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
4. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
6. The boundary of a farm operation located in an agricultural district, as defined by Article 250aa of the Agriculture and Markets Law.

G. SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

H. OTHER AGENCY REVIEW. In its review, the Planning Board may consult with professionals such as, but not limited to, an engineer, attorney, surveyor, or land use/environmental planner and other Town and county officials and boards, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be paid for and borne by the applicant.

The Planning Board shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Planning Board may approve a special use permit application contingent upon final approval of such application by other agencies. The Code Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Planning Board are met prior to issuing a zoning permit. Such permit shall be approved prior to issuing a building permit.

#### I. DECISIONS

1. Time of decision. The Planning Board shall decide upon the special use permit application within sixty-two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Planning

Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

- a. Extension of Time to Render Decision. The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.
2. Type of Decision. In rendering its decision, the Planning Board shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said special use permit, any such conditions must be met before issuance of permits by the Code Enforcement Officer.
    - a. Approval. Upon approval of the site plan and special use permit and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan, and shall, within five (5) business days of its decision, file along with the site plan, a written statement of approval with the Town Clerk and the Code Enforcement Officer. 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 approve the site plan and special use permit, and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval, and after 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, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk. A copy of the approval shall also be filed with the Code Enforcement Officer.
    - c. Disapproval. Upon disapproval of the site plan and special use permit, the decision of the Planning Board shall, within five (5) business days, file the same with the Town Clerk and Code Enforcement Officer and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board's reasons for disapproval.

3. Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
- O. Applicable Considerations - In their consideration of an application for Site Plan Approval, the Board shall determine that:
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 consideration.
  11. Except for preexisting nonconforming lots of record, the use shall meet the prescribed area and bulk requirements for the district in which it is located.
  12. There is adequacy of utilities, storm water and drainage facilities, water supply and sewage disposal facilities.
  13. The project is compatible with neighborhood character and the overall rural character of Sharon.
    - a. Relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to minimizing the impact of the commercial development on such district or use.
    - b. Individual buildings shall relate to each other, and to traditional structures in the surrounding area, in lot placement, scale, height, build-to lines, and connections to harmonize visually and physically with the traditional character of the area.
    - c. Buildings shall have facades that honor traditional styles and patterns found in Sharon. The Planning Board shall evaluate the impact to, and compatibility of, these design features with existing neighborhoods.

- d. When commercial projects involve the renovation/reuse of an existing building, the traditional character and architectural elements shall be maintained as may be required by the Planning Board.
- e. The visual impacts of new structures on hills or ridge tops, as viewed from public roads, public property, or publicly access areas such as parks shall be considered and negative impacts mitigated.
- f. The proposed use shall be designed and shall be carried out in a manner that protects historic features on the site under review and in adjacent areas.

14. The project is compatible with active agricultural activities.

## **Section 22 – Special Use Permits**

- A. Land use activities listed in Attachment I - Zoning Schedule as requiring a Special Use Permit shall not be permitted until such special conditions have been fulfilled or a Special Use Permit has been authorized by the Planning Board in accordance with the provisions of this Local Law. A site plan approval shall be required for all special uses and the Planning Board shall conduct the review process concurrently. Section 21 outlines the site plan/special use permit review procedures.
- B. Application Materials for Special Use Approval. The applicant shall fill out and submit the ‘Application for a Special Use Permit/Site Plan Review’ form. See also Section 21 (b) for additional information on site plan/special use application materials. Any application for a site plan review and special use permit shall be made in writing. The application and required information shall be delivered to the Code Enforcement Officer at least ten (10) days prior to the date of the next regular meeting of the Planning Board. Seven copies of the application and required information as set forth below shall be submitted.
- C. A special use permit shall be deemed to authorize only the particular special use or uses permitted. Once a special use permit has been granted, it shall apply to the approved use on that parcel regardless of ownership, as well as to any subsequent use of the property in the same use category as per the Zoning Schedule, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.
- D. LAPSES AND EXPIRATION. Special use permits will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit, unless other provisions are set forth by the Planning Board in connection with its approval, three years after approval. A special use permit will expire if the special use or uses shall cease for more than three years for any reason. If a use subject to an approved special use permit had been in continual operation, but has since lapsed in

operation for more than three years between Planning Board approval and re-initiation of such use, the Planning Board shall require a review of such use prior to reinstatement to ensure that all original conditions of the special use permit are still valid. In either case, the Planning Board may, after review, reinstate, or reinstate with conditions such as lapsed use. Such Planning Board review shall be initiated through action by the Code Enforcement Officer.

- E. RENEWAL OF PERMIT. The Planning Board, as a condition of approval, may require that special use permits be renewed periodically. When the Planning Board has established such a condition of approval, at least ninety (90) days prior to the expiration of a special use permit, the applicant shall apply to the Code Enforcement Officer for renewal of the special use permit. The Code Enforcement Officer shall inspect premises, verify that conditions of the permit have been met, and renew the permit for a time equal to the original special use permit. Where the Code Enforcement Officer determines that the applicant has not complied with the special use permit, permit renewal shall require Planning Board approval.
- F. EXISTING VIOLATION. No special use permit shall be issued for a property in violation of this Zoning Law unless the granting of a special use permit and Site Plan approval will result in the correction of the violation.
- G. DEEMED TO BE CONFORMING. Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the special use permit shall affect only the lot, or portion thereof, which is the subject of the special use permit application.
- H. EXPANSION OF SPECIAL USE. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Ordinance. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.
- I. FACTORS FOR CONSIDERATION FOR A SPECIAL USE:
  - 1. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.
  - 2. Nuisances. The proposed use shall not be more objectionable to nearby property owners or occupants by reason of noise, fumes, vibration, or lighting than would the operations of a permitted principal use. The performance standards found in this chapter shall represent the minimum requirements to be achieved by any proposed use.

3. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, pedestrian movement, relation to main traffic thoroughfares and to street and road intersections, the general character and intensity of development of the neighborhood and its relationship to the overall intensity guidelines for the particular zoning district as set forth in the Town Land Use Plan.
4. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and building or impair the value thereof.
5. Location, arrangement, size, nature, intensity of operations, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible with the neighborhood in which it is located, with the rural and small town character of Sharon, and the Town of Sharon Comprehensive Plan, and shall safeguard the values of surrounding properties from noise, glare, unsightliness, or other objectionable features.
6. The proposed use shall protect natural environmental features. Significant natural, ecological, cultural, and historical features on the site are preserved as much as possible (i.e. hills, water bodies, wetlands, stream buffers and streamside vegetated buffers, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, scenic locations, historical locations, and other areas of aesthetic, scenic and ecological interest).
7. Vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls shall be adequate to serve the special use, while at the same time, shall not negatively impact the overall traffic circulation system of the neighborhood and the Town. Traffic will not adversely impact the rural community character of Sharon. High frequency and high impact truck traffic shall meet all requirements of Local Law #1 of 2012.
8. The level of municipal and other services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.
9. The Planning Board shall impose additional conditions and safeguards to the special permit use as are directly related to and incidental to the proposed special use permit and which may be necessary to assure continual conformance to all

applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.

10. The project is compatible with neighborhood character and the overall rural character of Sharon.

## **ARTICLE VI – ADMINISTRATION AND ENFORCEMENT**

### **Section 23 – Zoning Board of Appeals**

A Zoning Board of Appeals consisting of five (5) members shall be appointed by the Town Board to carry out the duties prescribed for such Board under this Land Use Code in accord with the provisions of law.

#### **I-Powers and Duties**

- A. The Zoning Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under this Code and all its determinations shall be made in accord therewith. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this Local Law, which are more particularly specified as follows:
1. Interpretation - Upon application or appeal from a decision by the Code Enforcement Officer, to decide any question involving the interpretation of any provision of the Regulations and laws embodied in this Code including determination of the exact location of any zoning district boundary if there is uncertainty with respect thereto.
  2. Variances - To vary or adapt the strict application of any of the requirements of the laws embodied in this Code where strict application would result in practical difficulty or unnecessary hardship as further differentiated between below:
    - a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this Zoning Law, to grant area variances as defined in this Zoning Law.
      1. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
        - a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
        - b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

- c. whether the requested area variance is substantial;
  - d. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
2. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Use Variance -

No use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning law and restrictions have caused unnecessary hardship. The applicant shall have the burden of proving unnecessary hardship to the satisfaction of the Zoning Board of Appeals. The Zoning Board of Appeals shall not determine that an applicant has successfully proved unnecessary hardship unless it determines that the applicant has demonstrated that, for each and every permitted use under the zoning law for the particular district where the property is located, the following four criteria have been met for each such permitted use:

1. that the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. that the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- C. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable

conditions and restrictions as are directly related to, and incidental to, the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## **II - Procedures**

- A. The Zoning Board of Appeals shall act in strict accordance with the procedures specified by law and by this Code in accord with the following:
1. Application - All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Law or regulations involved and shall set forth exactly the Interpretation that is claimed, or the details of the Variance that is applied for and the grounds on which it is claimed that the Variance should be granted, as the case may be. Appeal for Variance shall be made only after permit has been denied by the Code Enforcement Officer. If the Planning Board denies a request for Special Use Permit, the applicant may apply to the Zoning Board of Appeals for relief within thirty days of notification of denial. In such case, the Zoning Board of Appeals will not request a recommendation on the matter from the Planning Board, but shall request information supporting the reason for denial.
  2. Notification and Public Hearing - The Zoning Board of Appeals shall fix a reasonable time for the public hearing required for every appeal or application and shall give public notice thereof by publication in the official paper of a notice of such public hearing at least ten (10) days prior to the date thereof; and shall, at least ten (10) days before such public hearing, mail notices thereof to the applicant or appealee involved.
  3. Referrals - At least fifteen (15) days before the date of the public hearing required by law on an application or appeal for an Interpretation, or Variance, the Zoning Board of Appeals shall transmit to the Planning Board a copy of said application or appeal, together with notice of the aforesaid public hearing and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on said application or appeal; and the Planning Board shall submit a report of such advisory opinion on or before the date of said public hearing. In addition, any Interpretation, or Variance involving lands within five hundred (500) feet of an adjoining municipality, state or county property or right of way shall be referred to the Schoharie County Planning and Development agency and acted upon in accord with the requirements of Section 239-M of the General Municipal Law.

Any application for a special use permit, site plan approval or use variance requiring municipal review and approval by the Zoning Board of Appeals that would occur on property within an Agricultural District containing a farm

operation or on property with boundaries within five hundred (500) feet of a farm operation with an Agricultural District, shall include an Agricultural Data Statement. The Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such Agricultural District.

Upon the receipt of such application by the Zoning Board of Appeals, the Secretary of the Zoning Board of Appeals shall mail written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice will be borne by the applicant.

The Secretary of the Zoning Board of Appeals shall refer all applications requiring an Agricultural Data Statement to the Schoharie County Planning and Development agency as required by section two hundred thirty-nine-m of the General Municipal Law.

4. Decision and Notification - within sixty-two (62) days from the date of the public hearing, the Board shall render a determination with respect to the subject consideration, and the applicant or his authorized agent will be so notified in writing. Every decision of the Zoning Board of Appeals shall be by resolution of a majority of the full membership of such Board, each of which shall contain a full record of the findings of the Board on file in the office of the Town Clerk together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board and Planning Board of each Interpretation rendered and each Variance authorized under the provisions of this Code.

## **Section 24 - Land Use Permit and Certificate of Compliance**

### **A. Land Use Permit**

1. Permit Required - No building or structure shall be erected or relocated and no new or expanded use introduced or added to until a Land Use Permit therefore has been issued by the Code Enforcement Officer.
2. Application - There shall be submitted with all applications for a Land Use Permit two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of any existing and proposed building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Local Law. An application for a Certificate of Compliance shall be made coincidental with any application for a Land Use Permit, such application to be valid for the duration of the Permit.

3. Notification of Determination - The Code Enforcement Officer shall issue or refuse to issue the applied for Land Use Permit, or advise the applicant of any required additional information or referral required within ten (10) days of receipt of the application. Notice of refusal to issue any Permit shall be given to the applicant in writing and shall state the reasons for said refusal. Approval of the application shall be indicated by issuance of the Land Use Permit, subject to the payment of such fee as may have been established by the Town Board.
4. Duration of Validity - A Land Use Permit issued under this Local Law shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void; except when application is made to the Zoning Board of Appeals for an extension of validity and the Board authorizes such extension as it may determine appropriate.
5. Invalid Permit - No Permit authorized or granted by any official of the Town in contradiction to the provisions of this Local Law shall vest any rights or interest to the Permit holder irrespective of any action taken or obligation incurred in reliance on such Permit, nor shall the Town be liable for same, under any such invalidly issued Permit.

#### B. Certificate of Compliance

1. Certificate Required - No existing land or building shall be changed in use and no building hereafter erected, altered or extended, shall be used or changed in use until a Certificate of Compliance shall have been issued by the Code Enforcement Officer.
2. Application - Application for a Certificate of Compliance shall be made coincidental with any application for a Land Use Permit. Such application shall be valid for the duration of the validity of the Land Use Permit.
3. Notification of Determination - The Code Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a Certificate of Compliance is required before issuing such Certificate. Such inspection shall be made within ten (10) days from the date of notification of project completion. A Certificate of Compliance shall be issued only if the proposed use of the building or land conforms to the provisions of this Local Law and to that plot plan, purpose and description for which the Land Use Permit was issued. Issuance of the Certificate or written notification of refusal to issue the same and the reasons therefor are to be accomplished within fifteen (15) days from the date of notification of project completion.

### **Section 25 - Amendments**

- A. The Town Board may on its own motion, on petition, or on recommendation of the Planning Board or Zoning Board of Appeals, after public notice and hearing, amend,

supplement, repeal or change the regulations and district boundaries established by this Local Law pursuant to law.

- B. All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within fifteen (15) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.
- C. Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law.
  - 1. Whenever any amendment would change the district classification of or a regulation applying to real property within a distance of five hundred (500) feet from any boundary line of a neighboring municipality or within five hundred (500) feet of any County of State property or right of way, said proposed Special Use Permit, variance or amendment shall be referred to the Schoharie County Planning and Development Agency pursuant to NYS GML Section 239-n, which agency shall have thirty (30) days in which to report its recommendations to the Board from which it was referred. Failure of the County Planning and Development agency to report within thirty (30) days may be construed to be approval by the agency. Notification of action taken on any matter previously referred to the County Planning and Development agency will be given within seven (7) days of such action.
- D. After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend this Zoning Law, except in the instance of a Protest Petition.
- E. If a Protest Petition against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by legitimate parties of interest as provided for under Section 265 of the Town Law such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of the members of the Town Board

## **Section 26 - Enforcement; Violation; Appeal**

- A. Enforcement - This Local Law and other regulations included in the Code shall be enforced by a person designated by the Town Board and herein called the "Code Enforcement Officer", who shall in no case grant any Permit or Certificate of Compliance for any building or use where the proposed erection, alteration, relocation, placement or use thereof would be in violation of any provision of these Regulations and Local Law. The Code Enforcement Officer shall make such inspections as are necessary to carry out his duties.

- B. Citizen Complaint - Any resident, property owner or other person of legitimate interest may file with the Town Clerk a written and signed complaint against any alleged violation of these Regulations and this Local Law. Such complaint shall then be referred to the Code Enforcement Officer or Dog Control Officer, as appropriate. It shall be the duty of said Officer to investigate such alleged violation and report thereon to the Town Board in a timely manner, which report shall be filed as part of the public record of the Town. The citizen who filed the complaint shall receive a written response within sixty (60) days of the Code Enforcement Officer's receipt of the complaint.
- C. Notification and Correction - Any building or use found to be in violation of these Regulations or this Local Law shall be so recorded by the Code Enforcement Officer and official notice to this effect shall be given to the owner and/or tenant, user or occupant thereof. The owner, tenant, user or occupant shall correct such noted violation within sixty (60) days from the date of notification. If any such violation is not corrected within this sixty (60) day period, the Town may institute proceedings to compel compliance, as specified in Local Law No. 1 of 1991, (To amend the Land Use Code, Part III Zoning Local Law) and as it may be amended.
- D. Violations and Penalties - Shall be as follows:
1. Any person or corporation, whether as owner, or lessee, agent of employee, who shall violate any of the provisions of these Regulations or this Local Law, or who fails to comply with any order or regulation made thereunder; or who erects, alters, moves or uses any building or uses any land in violation of any detailed statement of plans submitted by him and approved under the provisions of these Regulations or this Local Law, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding two hundred fifty (\$250) dollars or imprisonment not exceeding thirty (30) days, or both.
  2. Each week's (7 days) continued violation shall constitute a separate additional offense.
  3. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of these Regulations or this Local Law, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.
  4. In the event that the Town of Sharon institutes any appropriate action or proceedings, pursuant to Section 26 herein, all work, repairs, costs, disbursements and attorney's fees thereby incurred shall be a monetary judgment and shall also

be a lien upon the property where the violation existed, and the amount so assessed and levied shall be collected in the same manner as Town taxes.

- E. Appeal - All appeals for relief from the application of these Regulations or this Local Law in matters of interpretation or request for variance shall be directed to the Zoning Board of Appeals which Board shall function as prescribed in Section 23 of this Code.
- F. Court Review - Any person or persons, jointly or severally aggrieved by any decision of the Planning Board, Zoning Board of Appeals, Town Board or any officer or department of the Town concerning these Regulations or this Local Law may have the decision reviewed in the manner provided by Article Seventy-Eight of the Civil Practice Law and Rules, provided the proceeding is commenced within thirty (30) days after the receipt of written notice of the decision. Costs shall not be allowed against the Town unless it appears to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from

## **Section 27 - Interpretation and Effectuation**

- A. Interpretation - In their interpretation and application, the provision of these Regulations or this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of these Regulations or this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard shall govern.
- B. Separability - The invalidity of any provision of this Local Law or Code shall not invalidate any other provision thereof.
- C. Fees - A schedule of nonrefundable fees for permits and procedures under these Regulations shall be as established by the Town Board.
- D. Supersession of Inconsistent Laws – The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the Town Law inconsistent with this chapter. The Town Law provisions intended to be superseded include all of Article 16 of Town Law, and in particular Sections 261 through 265 inclusive, and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law, the Statute of Local Governments and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this Local Law and superseded such inconsistent provision had it been apparent.

- E. Repeal and Replacement of Existing Law – Upon taking effect, this Local Law shall repeal and replace in its entirety, the Town of Sharon Land Use Code, first adopted on October 10, 1975 and amended periodically since.
- F. Effective Date - This local law shall take effect immediately upon filing with the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, and specifically Article 3, Section 27 of the New York State Municipal Home Rule Law.

## **ARTICLE VII DEFINITIONS**

I-For the purpose of this code certain words used herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense.

The singular includes the plural.

The word "person" includes a corporation as well as an individual.

The word "lot" includes the word "plot" or "parcel."

The word " shall" is always mandatory.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended; arranged, or designed to be used or occupied."

### **II-Definitions shall include the following:**

**ACCESSORY APARTMENT:** A second dwelling unit, either in, or added to, an existing single-family dwelling, or in a separate accessory structure such as barns and garages on the same lot as the existing single-family dwelling, for use as a complete, independent living facility with provisions in the accessory apartment for cooking, eating, sanitation, and sleeping. Such an apartment is a secondary and subordinate use to the principal dwelling. A mobile home or single-wide manufactured home shall not be considered as an accessory apartment.

**ACCESSORY BUILDING:** A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

**ACCESSORY USE:** A use customarily incidental and subordinate to the principal use or building.

**ALLEY:** A public way having a right-of-way width of twenty (20) feet or less.

**ADULT USE AND ENTERTAINMENT ESTABLISHMENTS:** A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age, and are those businesses defined in this Local Law.

**AGRITOURISM:** Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity may be secondary to the primary farm use on a property. Agri-tourism activities may be conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

**AGRICULTURAL DATA STATEMENT:** A written statement required when certain land use determinations within five hundred (500) feet of a farm operation located in a NYS Agricultural District takes place. The statement must include information about the proposed project, and is included in the application for project approval. A notice of the project application is mailed to owners of land associated with the neighboring farm operation identified in the statement. The Planning Board is required to evaluate and consider the statement in its review of possible impacts of a project on nearby farm operations.

**AIR FIELD:** A facility for aircraft including landing, departure, service and storage of such aircraft.

**AMBIENT NOISE LEVEL:** The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location except for those sources related to oil and gas drilling, production, and compression, constituting the normal or existing level of environmental noise at a given location.

**ANTENNA:** A device designed, used or intended to be used to transmit and/or receive electromagnetic signals, including the frequencies used by radio, television, cellular, paging, PCS and microwave.

**APPURTENANT STRUCTURE/USE:** A structure, installation or equipment designed and located ancillary to and in support of the principal building or use.

**ASSEMBLY, SPECIAL EVENT:** A gathering of persons, especially for worship, entertainment, deliberation and/or legislation, not to include, among other things, adult entertainment/uses.

**ATHLETIC FIELD:** Outdoor grounds, public or private, intended for organized athletic sporting events such as baseball, soccer, football, rugby, lacrosse and non-motorized sports.

**A-WEIGHTED SOUND LEVEL (DBA):** The sound level in decibels as measured on a sound level meter using the A-weighting network.

**BASEMENT:** A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

**BED AND BREAKFAST:** An owner-occupied residential building also used for renting accommodations to transient, fee-paying guests, and providing not more than one (1) meal daily to guests only. Not more than ten (10) rooms may be let.

**BLOCK:** the length of a street between two street intersections. Where street intersections are at intervals greater than twelve hundred (1,200) feet, 1,200 feet shall be considered the length of a block for purposes of this law.

**BOARDING HOUSE AND/OR ROOMING HOUSE:** A dwelling, other than a hotel or bed and breakfast, wherein more than four (4) people are sheltered and/or fed for profit.

**BUFFER AREA:** An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties. Natural vegetative covers existing within the buffer area shall be encouraged to be preserved as part of that buffer to the maximum extent practical. See also stream buffer and streamside vegetated buffer.

**BUILDING:** Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into entirely separate parts extending from the ground up, each part so divided is deemed a separate building.

**BUILDING, CHANGE OF USE:**

1. any change in use from one district classification to another,
2. removal of a building from one location to another.
3. any change in supporting members of a building except such changes as may be required for its safety,

**BUILDING, HEIGHT OF:** The vertical distance measured from the average level of the proposed finished grade across the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gambrel roofs.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**CAR WASH:** Any commercial building or premises or portions thereof used for washing automobiles. This may include automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

**CELLAR:** A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

**CEMETERY:** Land used or intended to be used for the burial of dead human beings and dedicated for such purpose, including columbarium's, mausoleums, and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

**CENTER LINE OF STREET OR ROAD:** A line midway between and parallel to two (2) street or road property lines or as otherwise defined by the Planning Board.

**CHURCH:** A building for public worship and/or a residence for ecclesiastical personnel.

**CLINIC:** A facility for diagnosis and treatment of outpatients or a group practice in which several physicians work cooperatively.

**CLUBHOUSE:** A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe, or other public place.

**CODE ENFORCEMENT OFFICER:** The duly-designated official responsible for enforcing this Code as prescribed herein and as directed by the Town Board. The duties of such Code Enforcement Officer may be assigned to the Highway Superintendent, Town Engineer, or others as directed by the Town Board.

**CO-LOCATION:** The placement of two or more telecommunication facilities at the same location.

**COMMERCIAL EXCAVATION/MINERAL EXTRACTION/MINE:** Property or part thereof used for the purposes of extracting stone, rock, sand, gravel, or topsoil or minerals as a commercial operation from the surface or below the ground, and exclusive of the process of grading a lot preparatory to the construction of a building for which a Permit has been issued. This does not include gas, oil, or natural gas solution mining.

**COMMERCIAL GARAGE:** Any garage operated for gain, and whose primary purpose is the storage, repair, or servicing of motorized vehicles, including, but not limited to, autos, trucks, snowmobiles and ATV's.

**COMMERCIAL RECREATION/TOURIST ATTRACTION:** Any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to amusement parks, replicas of real or fictional places, things or people, miniature golf, drive-in theatre, natural geological formations, health spa, and mineral baths.

**COMPLETE APPLICATION:** An application for development that includes all required documents and submittals pursuant to this law, and where a negative declaration has been made or a draft environmental impact statement has been accepted by the reviewing agency.

**COMPREHENSIVE PLAN:** A long-range plan intended to guide the growth and development of the Town of Sharon which includes inventory and analysis leading to recommendations for the Town's land use, future economic development, agriculture, housing, recreation and open space, transportation, community facilities, and community design, all related to the Town's goals and objectives for these elements and adopted pursuant to New York Town Law 272-a.

**COMPRESSION FACILITY:** Those facilities that compress natural gas after production-related activities which are conducted at or near the wellhead and prior to a point where the gas is transferred to a carrier for transport and serves more than one well; and/or a compressor that serves a pipeline.

**CONDOMINIUM:** A legal arrangement involving a combination of two kinds of ownership of real property:

- a. Fee simple ownership of the individual dwelling unit, and
- b. undivided ownership together with other purchasers of the common elements of the structure, land and appurtenances, the management of which is controlled by a property owners' or like association.

**CONSISTENT IN SCALE AND SIZE:** The degradation of the natural quality of water, air, soil, and other natural resources by human or other activities and events to the extent that their usefulness is impaired.

**CONSTRUCTION, FIRE RESISTANT:** That type of construction in which the walls, partitions, columns, floor and roof are noncombustible with sufficient fire resistance to withstand the effects of a fire and prevent its spread.

**COURT:** An unoccupied open space, other than yards, in the same lot with a building which is bounded on two or more sides by the walls of such building.

**CREMATORY:** Also "crematorium". A furnace for cremating.

**DAY CARE:** Any program or facility licensed by the State of New York Office of Children and Family Services and which has a program caring for children of any age for more than three hours per day per child in which child day care is provided in a private residence for three to six children as per New York State Social Services Law § 390

**DECIBEL:** A unit of sound pressure level measuring the amplitude of sound.

**DECK:** An unroofed extension made as a part of a building, used seasonally which is structurally sound and has a railing.

**DRIVE IN USE:** An establishment which, by design, physical facilities, and services or by packaging procedures, encourages and permits customers to receive services and obtain goods while remaining in their motor vehicles.

**DRIVEWAY:** A private entrance drive privately owned and maintained, and not meant for use by the general public, which commonly leads to a single principal use.

**DWELLING:** A house, apartment building or other building designed or used primarily for human habitation. The word "dwelling" shall not include boarding house, or rooming house, tourist homes, motels, hotels, or other structures designed for transient residence.

**DWELLING, GROUP:** A building or portion thereof designed primarily for residential purposes for year-round occupancy by more than three (3) persons not constituting a family, with or without common dining facilities, constituting one or more complete dwelling units.

**DWELLING, MULTIPLE FAMILY (MULTI-FAMILY):** A building or portion thereof designed for year-round occupancy, containing separate dwelling units for three or more families living independently of each other, other than a rooming house, hotel, fraternity, commune or other group quarters such as a row or town house.

**DWELLING, ONE-FAMILY (SINGLE FAMILY):** A detached dwelling unit providing complete housekeeping facilities designed for year round occupancy by one family only, (other than a mobile home, recreational living unit or any temporary structure) and where in, not more than three (3) people are sheltered and/or fed for profit.

**DWELLING, ROW OR TOWN HOUSE:** A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

**DWELLING, SEASONAL:** A detached one-family dwelling unit providing complete housekeeping facilities for one family designed for seasonal or non-year-round occupancy other than a mobile home, recreational living unit or any temporary structure.

**DWELLING, SECTIONAL (DOUBLE WIDE):** Two or more factory-fabricated dwelling units which are transported to the site by means other than on their own chassis where they are placed on a permanent foundation and are joined to make a dwelling unit for year-round or seasonal living. The term 'sectional' shall include the term 'modular' and such dwelling units shall be deemed to be one-, two-, seasonal- or multiple-family dwellings, as is appropriate in the context of this code.

**DWELLING, TWO FAMILY:** A detached dwelling unit designed for year-round occupancy by two families living independently of each other, other than a mobile home, recreational vehicle or rooming house.

**DWELLING UNIT:** A building or portion thereof providing complete housekeeping facilities for one family, including living, sleeping, cooking and sanitary facilities.

**EASEMENT:** Authorization by a property owner for the use by another party and for a specified purpose, of any designated part of his property.

**EDUCATIONAL FACILITIES:** School, private or public, for the instruction of children and/or adults.

**EFFICIENCY APARTMENT(S):** An apartment in which the living and sleeping facilities are combined in one room. A kitchen may be included in this area or may be a separate room. Such apartment will have a separate private bathroom.

**EXEMPT BUILDING/USE:** A minor ancillary structure or use such as a children's play or tree house, play equipment, outdoor barbecue, dog house and like facilities common to and generally not affecting the principal use of the premises in any significant manner, the dimensions of which shall not exceed twelve (12) feet in any direction nor one hundred forty four (144) square feet in area. Such building or use shall not require a Permit under this Code and shall not be counted against the allowable number of, or area to be occupied by, accessory buildings or uses.

**FAMILY:** One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed as an accessory use.

**FAMILY CARE FACILITY:** A residential facility designed to provide housing and care for four (4) to ten (10) individuals not constituting a family, but living as a housekeeping unit under the supervision of a resident family operating an approved program regulated by the State of New York or a political subdivision thereof. Such facility shall be duly certified by and maintain full compliance with the appropriate governing social services, mental hygiene or corrections agency under whose auspices the program is functioning.

**FARM IMPLEMENT DEALERSHIP:** Facility designed for the sales and service of agricultural equipment.

**FARM MARKET:** a location or structure larger than 200 square feet, where one or more farmers or vendors sell agricultural produce to the public on a permanent basis, whether that market is seasonal or year-round.

**FARM, OPERATING:** the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this Article 25-AA of the Agricultural Districts Law and "timber processing" as defined in subdivision fourteen of Article 25-AA. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**FARM STAND:** A temporary use of a structure including small buildings, carts, wagons or stands for the display and sale of farm products produced on the property where the stand is located, and not more than 200 square feet in size.

**FARM STRUCTURE/USE:** The management and use of land for a farm operation, or a building associated with a farm operation.

**FARM WORKER HOUSING:** an accessory apartment or other dwelling used to house farm workers on a parcel of land used as an agricultural operation.

**FINAL PLAT/PLAN:** The final map or drawing and supplementary information as required in Appendix A of this Code, including that plan of subdivision which, if approved, shall be submitted to the County Clerk for filing by the applicant

**FLOOD:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water.

**FLOOD HAZARD AREA:** A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded during a 100-year flood as depicted by the U.S. Department of Housing and Urban Development.

**FLOOD, 100 YEAR:** The highest level of flood that on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year).

**FLOOD PLAIN MANAGEMENT:** The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and land use and control measures.

**FLOODPROOFING:** Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to land, water and sanitary facilities, structures and contents of buildings.

**FLOOD PROTECTION ELEVATION:** The 100-year flood elevation.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land area required to carry and discharge a flood of a given magnitude.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of the exterior walls or from the center lines of wall separating two buildings.

**FOREST PRACTICES:** The production, management and harvest of forest and woodland products including related research and educational activities. Such term shall include the construction and maintenance of directly related structures for the storage of materials and equipment and access trails and roadways.

**FRONTAGE:** That part of a property bounded by either a public or private road.

**GARAGE-PRIVATE:** A building, accessory to dwellings, used primarily for the parking or temporary storage of motor vehicles, boats and trailers.

**GARAGE-COMMERCIAL:** A building, other than a private garage, one or more stories in height, used for housing, storage or repair of truck, trailers, automobiles, farm equipment and other motorized vehicles whether or not accessory or incidental to another use.

**GASOLINE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term gasoline station shall be deemed to include filling station and service stations.

**GLARE:** The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual clarity and visibility.

**GOLF COURSE:** A facility designed for playing the game of golf.

**GREENHOUSE (COMMERCIAL):** a structure where plants are cultivated and sold for retail or wholesale purposes.

**GROUP CARE FACILITY:** A residential facility designed to provide housing and care for eleven (11) to twenty-five (25) individuals not constituting a family, but living as a housekeeping unit under the supervision of a resident family operating an approved program regulated by the State of New York or a political subdivision thereof. Such facility shall be duly certified by and maintain full compliance with the appropriate governing social services, mental hygiene or corrections agency under whose auspices the program is functioning.

**HABITABLE SPACE:** The space within a dwelling unit occupied for living, sleeping, bathing, eating and cooking purposes and exclusive of a cellar, attic or such other portions of the dwelling unit not generally occupied by the residents of the dwelling unit.

**HAZARDOUS MATERIAL:** Any waste material within the definition of hazardous waste found listed in either 40 CFR Part 261, 40 CFR Part 302, 6 NYCRR Part 371 or 6 NYCRR Part 597, alone or in combination, including but not limited organic chemical solvents, heavy metal sledges, acids with a pH of less than or equal to two, alkalis with a pH greater than or equal to twelve point five, radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosively, reactivity or EP toxicity.

**HEAVY INDUSTRIAL USE –** Any use or activity which generates, collects, handles, manufactures, transfers, disposes of, or stores significant volumes of smoke, odors, noise, or other polluting wastes and is not compatible with other uses in the district. Examples of “heavy industry” which are intended to be included in this definition are: chemical manufacturing; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of “heavy industry” are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops; wineries and breweries; warehouses; equipment repair and maintenance facilities; helipads; parking lots and parking garages; light manufacturing or light industrial facilities (as defined elsewhere in this law); agriculture; and surface gravel and sand mining. It is expressly stated that the foregoing examples are not intended to be exhaustive shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

**HIGH FREQUENCY AND HIGH IMPACT TRUCK TRAFFIC:** Traffic over Town roads generated by a commercial project or activity that generates more than ten (10) truck trips per twenty four (24) hour period for more than three (3) consecutive days, involving trucks that are registered for 26,001 pounds or greater, and/or truck traffic of one or more vehicles that are oversized and/or overweight requiring a permit to travel New York State roads and highways pursuant to New York State Vehicle & Traffic Law 385. See Local Law # 1 of 2012 for truck traffic that is exempted from this Local Law.

**HIGHWAY, COMMERCIAL:** A retail commercial activity or service designed primarily to accommodate, and dependent on, the motoring public. As used in this Code, the term includes but is not limited to gasoline station, service garage, motel or tourist accommodation, and eating and drinking establishments.

**HIGHWAY SUPERINTENDENT:** The duly-elected or appointed official responsible for overseeing construction and maintenance of the Town highway system.

**HOME OCCUPATION:** An occupation or a profession which:

1. is carried on wholly within the enclosed walls of the dwelling unit exclusive of accessory structures and does not use more than twenty five (25) percent of the floor area;
2. is carried on by a member or members of the family of the dwelling unit;
3. is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
4. not more than one (1) person outside the family shall be employed in the home occupation;
5. shall not generate traffic beyond that normally expected in a residential neighborhood. Any need for parking generated by such use shall be provided in an off-street area, other than in a front yard;
6. shall not create noise, dust, vibration, odor, glare, fumes or electrical interference detectable by the normal senses or person outside the dwelling unit. In the case of electrical interference, there shall be no radio, television or other electrical distribution outside dwelling unit or fluctuations in line voltages of the premises;
7. there shall be no advertising display visible from the street, other than an unlighted professional nameplate sized a maximum of two (2) square feet in area.
8. not to include, among other things, kennels and restaurants.

**HOSPITAL:** An establishment for temporary occupation by the sick or injured for the purpose of medical diagnosis and treatment, including sanitarium, and shall be limited to the treatment or other care of humans.

**HOTEL/TOURIST ACCOMMODATION:** Hotel shall mean a public inn in which there are rental rooms without provisions for cooking in any individual room or suite. Such uses may include accompanying eating, drinking and related sales provided that any such ancillary service uses are directly related and secondary to the principal function of overnight sleeping accommodations.

**HOUSEHOLD PETS:** Animals kept for companionship and enjoyment including but not limited to cats and dogs, and not raised for the production of products or for sale.

**INJECTION WELL:** A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi-solids) are injected into the subsurface and ninety (90) percent or more of such fluids do not return to the surface within a period of ninety (90) days. Injection wells do not include: (a) single family septic systems which receive solely residential waste, (b) drainage wells used to drain surface fluids, primarily storm runoff, into the ground, or (c) geothermal wells associated with the recovery of geothermal energy for heating or production of electric power.

**JUNKYARD:** A lot, land or structure or part thereof, used in whole or in part for the collecting, storage, stockpiling or sale of waste paper, rags, scrap metals, used or salvaged building or other discarded material, or for the collecting, dismantling, storage and salvaging of equipment, machinery, motor vehicles, motor vehicle hulks or parts. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unlicensed, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts or materials there from or not. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two (2) or more vehicles.

**KENNEL:** Any premises on which four or more dogs, including those for laboratory, working, or sport over four months old are boarded, bred, trained, or sold, all for a fee or compensation. This is further defined by:

Boarding Kennel: any premises on which four or more dogs over four months are boarded for compensation.

Commercial Kennel: Any premises on which four or more dogs over four months are bred, trained, sold, housed or groomed, all for compensation.

Training Facility: A facility used to train, discipline and instruct an animal as in performance of tasks or tricks but not for housing or boarding.

**LANDFILL, SANITARY:** A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**LARGE MINE:** A mine where 750 cubic yards or more are removed per year.

**LIGHT INDUSTRIAL USE:** Low-impact design, manufacture, assembly, treatment or packaging of products or parts predominantly from previously processed or prepared materials (including fabrication, incidental storage, and distribution of such products or parts) provided (1) that all operations are conducted entirely within an enclosed building, (2) that does not emit objectionable levels of smoke, noise, dust, odor, glare or vibration beyond the property boundaries, (3) that is compatible with the Town of Sharon's Comprehensive Plan and its low residential density, agriculture and the environment. (4) a facility or use which does not employ more than fifty (50) people, (5) does not produce high volumes of polluting wastes, (6) Light industrial uses do not require heavy, noisy, or otherwise objectionable machinery or transporting equipment. This does not include, among other things, commercial incineration of waste. Light industrial uses include, but are not limited to:

- A. Food and beverage production and processing, including but not limited to such uses as a dairy processing plant, bakery, and bottling plant.

- B. Apparel and other textile products.
- C. Furniture and fixtures.
- D. Printing and publishing.
- E. Electrical and electronic machinery and equipment.
- F. Metal fabrication.
- G. Mail order distribution center.
- H. Warehousing ancillary to the authorized use.

**LOT:** A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open space and principal frontage on a public street or roadway as is required by this Code. A separate and distinct lot shall be properly delineated for each separate principal use including the location and permanent recording of front, side and rear lot lines for the purpose of determining compliance with the provisions of this Code.

**LOT, AREA:** The total area included within side and rear lot lines and the street or highway right of way.

**LOT, CORNER:** A lot which has an interior angle of less than one hundred and thirty-five (135) degrees at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a corner lot, if the tangents to the curve at its points beginning within the lot or at the point of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty-five (135) degrees.

**LOT LINE:** Any line dividing one lot from another or from an established right of way.

**LOT LINE ADJUSTMENT:** A modification of lot boundaries, in which a portion of one or more lots is added to an adjoining lot or lots, without increasing the total number of lots. A Lot Line Adjustment fee will be added to regular fees.

**LOT LINE, FRONT:** The lot line adjoining and separating the lot from any street or highway right-of-way line.

**LOT, UNIMPROVED:** A lot on which no building or structure has been constructed or located and on which no excavation, improved driveway, or the installation of water supply or sewage disposal systems has been initiated with the intent to serve a building or structure allowed for in the zoning district.

**LOT WIDTH:** The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the zoning district.

**LOT OF RECORD:** Any lot which has been established as such by plat, survey, record or deed prior to the date of enactment of the Land Use Code, as shown on the records of the Schoharie County Clerk's Office.

**LOW IMPACT:** Low impact means the cumulative environmental and social impact does not significantly and adversely affect the environment including but not limited to air quality, floodplains, steep slopes, stream corridors, wetlands, groundwater and groundwater recharge areas and other freshwater sources, and critical or rare habitats for plants and animals, Low impact also refers to uses that do not materially and adversely affect neighboring uses, where the impacts related to parking, driveways, roads, traffic, landscaping, screening, noise, vibration, lighting, odors, and waste disposal are not individually or in the aggregate deemed significant.

**MAJOR LAND FORM, ALTERATION OF:** The manipulation or movement, whether by dumping, filling or extracting, of an amount of earthen material to a differential of two (2) feet from the natural contour of the land form over an area in excess of 2,500 square feet or 100 linear feet.

**MAJOR PROJECT:** Any project that requires a special use permit or a site plan review that is not classified as a minor project.

**MEDICAL/DENTAL CLINIC:** Any structure or group of structures occupied by medical practitioners, including but not limited to doctors, dentists, chiropractors, opticians, optometrists, etc., and related services for the purpose of providing health services to people on an outpatient basis.

**MINOR PROJECT:** A project that requires site plan approval only by the Planning Board pursuant to the Attachment I, Zoning Schedule and that is limited in scope, and is a compatible land use having site and building design characteristics that are consistent with the neighborhood or district. Such determination is restricted to:

- a) applications establishing permitted uses within existing complying structures,
- b) limited modification of existing conforming uses and complying structures where there is no substantial site improvements including no changes in scale or intensity of use, no installation of signs, and no alterations to parking lots on the site. If a project requires an area variance, then it shall be considered a major project.

**MOBILE HOME:** A factory-finished movable dwelling unit, having a minimum floor area of six hundred (600) square feet, designed and built on a frame and wheels to be towed on its own chassis and designed for and providing housekeeping facilities for year-round or seasonal occupancy after being transported to the building site and placed on a permanent foundation. It does not include a recreational living unit, but may include such expandable or joined mobile units referred to as 'telescoping'. A mobile home shall have been designed and installed in compliance with the State Code for the Construction and Installation of Mobile Homes and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974, and as it may be amended; (as set forth in Volume 9 Executive (B) of the "Official Compilation of Codes, Rules and Regulations of the State

of New York") and further, any such unit shall bear the required seal noting such compliance.

**MOBILE HOME PARK/COURT:** A tract of land, not less than ten (10) acres of contiguous land, which is used or intended to be used for the location of two or more mobile homes to be used for residential dwellings.

**MODULAR HOME:** A residence consisting of a minimum of two (2) large sections each of which must be transported to the building site separately, placed on a permanent foundation with heating system to be installed and siding applied after.

**MOTEL OR MOTOR COURT:** A building or group of buildings, whether detached or connected used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for off street parking facilities with provisions for but not limited to

- a. automobile parking space to accommodate not less than one (1) car per rental unit, and
- b. separate toilet facilities and hot and cold running water for each rental unit.

Term "motel or motor court" includes buildings designated as tourist cabins, motor lodges, auto courts, motels and similar appellations.

**MOTOR VEHICLE:** All vehicles propelled or drawn by power other than muscular power.

**MOTOR VEHICLE SALES:** The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, trucks, vans, trailers or recreational vehicles, and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

**NON-CONFORMING BUILDING OR STRUCTURE:** An established building or structure lawfully existing prior to and at the time of the adoption of this law and its amendments which, because of its inherent nature of construction, does not conform to and with the provisions of this law for the district in which it is located.

**NON-CONFORMING USE OF BUILDING OR STRUCTURE OR LAND:** An established use of a building or structure or use of land lawfully existing prior to and at the time of the adoption of this law and its amendments that does not conform to and with the permitted use provision of this law for the district in which it is located.

**NON-CONFORMING LOT:** Any lot in single ownership, which does not conform with the minimum area and/or dimensions required in the district in which it is situated and where the owner of said lot does not own any adjoining unimproved property, the subdivision of which could create one (1) or more conforming lots.

**NON-CONFORMING SITUATION:** Use of a building or of land that does not comply with the applicable regulations set forth in this Code and where such building or use existed legally on the effective date of the respective Regulations embodied in this Local Law.

**NON-REGULATED PIPELINE:** Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

**NUISANCE NOISE:** An undesired audible sound including but not limited to that produced by chain saws, compressors, lawn mowers, or barking dogs that interferes with the enjoyment and use of property. For purposes of this law a decibel level exceeding 60 dB measured at the property boundary for a residential property and 70 dba for a commercial property shall be a nuisance noise.

**NURSING HOME/ADULT HOME:** A facility in which persons not related to each other are housed, fed and furnished with long term nursing care and related therapeutic services necessary to maintain their health and such care is normally provided within the facility by persons said to provide such care. Not intended to include care for acutely ill, or surgical or obstetrical services.

**OFFICES:** The building or room(s) used for a for-profit or non-profit business or organization to conduct their business or operation.

**OFFICIAL MAP:** The map established by the Town of Sharon, if any pursuant to Town Law showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Town or additions thereto resulting from the approval of subdivision plats by the Board and the subsequent filing of such approved plats. Streets not accepted by the Town as public streets may be shown thereon, but shall be marked as private streets.

**OPEN SPACE:** Land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, used for playgrounds or manicured recreational lands such as ball fields, lawns, or occupied by any structure except agricultural buildings. Open space may be included as a portion of one or more large lots provided the lot(s) are greater than 5 acres in size, and are contiguous to form a larger un-fragmented open space area, or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

**OPEN SPACE RECREATION USE:** A recreational use particularly oriented to and utilizing the natural landscape and outdoor character of an area, including hiking, bicycling, equestrian, park, picnic or beach area and similar undeveloped, outdoor are to be used for non-intensive uses.

**PERFORMANCE BOND:** A bond to cover the full cost of any required improvements, the amount of which shall be established upon recommendation of the Town Engineer and as agreed upon by the Town Board, and which shall be further certified to as to form, sufficiency, manner of execution and surety by the Town Attorney.

**PERMANENT:** A use or structure that is intended to be of long duration with no intent to cease or remove such use or structure.

**PERMANENT FOUNDATION:** A permanent foundation shall consist of:

a. A masonry wall constructed on a footer placed a minimum of four (4) feet below ground level.

or

b. A five (5) inch reinforced concrete pad extending two (2) feet beyond the outer limits of the sides and ends of the portable structure. The pad to be placed on a well drained site containing solid fill.

or

c. A series of concrete piers adequate to support the structure not more than eight (8) feet apart under each of the bearing beams of the structure. Piers to be placed a minimum of four (4) feet below ground level.

or

d. An approved, engineered, permanent wood foundation. Permanent wood foundations shall be shop engineered and constructed of pressure-permanent-preservative lumber and plywood components. All components shall be marked by an approved inspection agency certified to inspect preservative treated lumber and plywood.

**PERSONAL SERVICE SHOP:** Establishments to provide services related to personal care. A barbershop, beauty salon, masseur, shoe repair or tailor would be examples of “personal service” establishments, not to include, among other things, adult entertainment/uses.

**PIPELINE:** Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump station, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), used to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

**PORCH, OPEN:** A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it, or through it shall not be considered to be an open porch.

**PIT:** A surface or subsurface impoundment, man-made or natural depression, or diked area on the surface that is earthen excavation used for the purpose of retaining or storing substances.

**PRELIMINARY PLAT/PLAN:** The preliminary drawing or drawings and supplemental information as required in Appendix A of this Code, including that plan of subdivision submitted to the Planning Board for its approval.

**PUBLIC, SEMI-PUBLIC STRUCTURE, USE:** Municipal, educational, and religious facilities and institutions.

**PUBLIC UTILITY:** A public facility, or private facility (often operated by a monopoly), which provides services so essential to the public as to enjoy certain privileges, such as eminent domain, and is subject to such governmental regulation as fixing of rates and standards of service. A public utility is characterized by: (1) the essential nature of the services offered; (2) operation under a franchise, subject to some measure of public regulation; and (3) logistical problems, such as the fact that the product of the utility must be wired, piped, or otherwise served to each user, the supply must be maintained at a constant level to meet the minute-by-minute need, and the user has no alternative source and the supplier often has no alternative means of delivery.

**PUBLIC UTILITY USE:** Any public utility use, equipment, structure or installation, including related and/or accessory uses. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities. .

**RECREATIONAL CAMPGROUND:** A parcel of land designed to accommodate two or more recreational living units or other accommodation for seasonal or temporary or transitory living arrangements, including building and facilities thereon.

**RECREATIONAL LIVING UNIT:** A mobile recreational housekeeping unit including travel trailer, pick-up camper, converted bus, motor home, tent-trailer, camper trailer, tent or similar device used for temporary portable housing as an accessory to a single family dwelling unit.

**RESTAURANTS:** Premises in which meals are prepared and served to seated customers. While alcoholic beverages may also be served, the primary business of the establishment is the preparation of meals.

**RETAIL BUSINESS:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery,

delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationary store, and variety store.

**RIDING STABLE (COMMERCIAL):** A facility housing horses, and/or providing other equestrian related activities.

**RURAL SERVICE SHOP, USE:** A limited commercial business or service oriented to the rural residential or agricultural needs of the Town and involving the use of space in the principal residential structure or in an accessory building, whether existing or built specifically for this purpose.

**SEASONAL CLUB, LODGE:** Land and necessary appurtenant facilities for use by a membership club or organization and permitted guests for fishing and/or hunting purposes. Such land and buildings need not have frontage on or public access to a public highway or body of water.

**SELF-STORAGE WAREHOUSE:** One or more buildings consisting of self-contained units that are leased or owned for the storage of business or household goods. Existing structures such as barns may be suitable for use as a self-storage facility subject to a special use permit.

**SELF-STORAGE POD:** A large container designed and rented or leased for the temporary storage of commercial or residential household goods, that does not contain a foundation or wheels for movement. Examples of this use include piggyback containers that can be transported by mounting on a chassis, and "POD" type boxes that can be transported on a flatbed or other truck; but do not include prefabricated sheds that are not designed for transport after erection, or commercial trailers used by construction or other uses in the regular performance of their business.

**SETBACK:** The distance in feet between the building or other use and any lot line or designated point.

**SEWAGE DISPOSAL SYSTEM:** An approved method and installation of the proper accommodation and disposal of sanitary wastes. Such system may include connection to an approved public, community or individual disposal system as provided for in this Code.

**SIGN:** Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business. Each graphic display surface shall be considered to be a 'sign'.

**SIGN, ADVERTISING:** A sign which announces and directs attention to a business or profession conducted or a commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located.

**SIGN, AREA:** The area of a sign shall be that area as determined by circumscribing the exterior sign structure with a circle, triangle, quadrangle or other geometric form connecting all extreme points. The structure supporting a sign is not included in determining the sign area unless the structure is designed in a way to form an integral background for the display. Only one face of a double-face sign is included in the computation of such sign area.

**SIGN, BUSINESS:** A sign which directs attention to a business or profession conducted, or a commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

**SIGN, DIRECTORY:** A panel, booth or similar structure identifying and giving direction to business, civic, recreational or other attractions in the Town.

**SIGN, DOUBLE-FACED:** Any sign designed to be viewed from two (2) directions and which at no point is thicker than thirty-six (36) inches measured from the exterior surface of each face and the two (2) faces of the sign are either parallel or the angle between them is thirty (30) degrees or less. Such sign shall be considered as one (1) sign.

**SIGN, ERECTION:** To build, construct, attach, hang, place, suspend, affix or paint a sign.

**SIGN, FLASHING:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of the Code, any revolving, illuminated sign shall be considered a "flashing sign".

**SIGN, FREE-STANDING:** A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

**SIGN, GROUND-MOUNTED:** A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground.

**SIGN, ILLUMINATED:** Any sign containing electrical wiring or lighted by an exterior or interior light source.

**SIGN, NON-CONFORMING:** A sign which was installed prior to the effective date of the respective Regulations embodied in this Local Law, but which is in conflict with the provisions thereof.

**SIGN, OFF-PREMISE:** A sign which is located on a parcel of land separate from the parcel of land used for the principal business use.

**SINKHOLE:** A soil or rock depression, otherwise known as a doline, pit or closed depression; usually closed, circular or oval in shape, from 3 to 3,000 feet in diameter and 3 to 300 feet deep. These are natural formations associated with karst topography.

**SKETCH PLAN:** An informal plan or plat indicating salient existing features of a tract or parcel and its surroundings, and the general layout of a proposed project as required in Appendix A of this Code.

**SMALL MINE:** ANY MINE WHERE LESS THAN 750 CUBIC YARDS OF MATERIAL ARE REMOVED EACH YEAR.

**SPECIAL USE PERMIT-USE:** A use that would not be generally appropriate without restriction within a zoning district, but which, if controlled as to number, area, locations and/or relation to the neighborhood may be permitted if specific provision for such special use permit use is made in this Zoning Local Law, after application to and authorization by the Planning Board of a Special Use Permit therefore.

**STAGING AREA:** The presence of a storage, holding, or parking facility or location capable of such use for high frequency and high impact truck traffic pursuant to the Town of Sharon Road Preservation Law. Parking lots or areas associated with light manufacturing, permitted retail or service businesses, warehouses, and agricultural operations are not considered staging areas.

**STANDARD USE:** A use permitted in one or more of the respective zoning districts, upon application for and issuance of a Permit by the Code Enforcement Officer in accord with the standards applicable thereto.

**STEEP SLOPE:** Land areas where the slope, as measured by rise over run exceeds 15%.

**STORAGE:** The keeping, in an unenclosed or enclosed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours. Storage also includes a containment of any material in a pail, drum, tank, wagon, bladder, or pit. Storage for agricultural uses are exempt from storage requirements.

**STORY:** Story shall mean that part of a building, included between any floor, other than a cellar floor, and the floor or roof next above.

**STREETS** Any way, either public or private, dedicated to public travel for vehicular traffic, greater than twenty (20) feet in width, including the following:

- Major streets are those principal through traffic arteries.
- Collector streets are those that interconnect, and carry traffic between, minor residential and major streets.
- Minor streets are those which are used primarily for access to abutting residential properties. A 'cul-de-sac' is a minor street with only one outlet and having a turning loop at the closed end.

- Frontage or access roads are generally parallel with and adjacent to a major street or highway designed to provide access to abutting properties and protection from through traffic.

**STREET LINE:** A street line is the right of way line of a street as indicated by dedication or by deed of record.

**STRUCTURE:** Any facility constructed or used for residential, business, industry or public or private purposes, or accessory thereto, including but not limited to tents, lunch wagons, dining cars, mobile homes, swimming pools, billboard, signs, satellite dishes and similar facilities, whether stationary or movable.

**SUBDIVIDER:** Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**SUBDIVISION:** The division of any parcel of land into two or more lots, blocks, or sites with or without new or additional roadways, for the purpose whether immediate or future, of transfer of ownership or building development, of one or more of the lots and shall include resub division in whole or in part of any plat, filed or unfiled, which is entirely or partially undeveloped.

**SWIMMING POOL:** A private, outdoor pool designed and built for swimming purposes, including any such deck that may be attached, as an accessory use primarily by the occupants or tenants of said property. Such pool shall include any permanent in or above-ground pool and enclosure as required by the Uniform Fire Prevention Building Code.

**TELECOMMUNICATIONS FACILITY:** A principal or accessory structure or appurtenance including a telecommunication tower and/or antenna used to provide broadcast services through any existing or future technology such as digital, cellular telephone, personal communication (PCS), paging, radio and television. This term shall also apply to a principal or accessory structure or appurtenance which is or may have been designed to be used for any other purpose but which is proposed to be used to incorporate a telecommunication facility either exclusively or in conjunction with one or more other permitted uses.

**TELECOMMUNICATION TOWER:** A structure designed, used or intended to be used to support one or more antennas including free-standing, guyed, monopole and similar structures.

**TEMPORARY:** A use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period or a structure that is erected without any foundation or footings and is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

**TILE FIELD:** An approved leaching or drainage field which is connected to and part of a septic tank or other approved disposal process and which is located and constructed in accord with the requirements of this Code.

**TOURIST HOME:** A dwelling in which overnight accommodations and food are provided or offered for transient guests for compensation.

**TOWN ENGINEER:** A licensed professional engineer or other individual duly designated by the Town Board to carry out his duties.

**TOWN PLAN:** A comprehensive plan prepared for and by the Town setting forth the objectives and policies with regard to that general physical development of the Town, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**TOXIC SUBSTANCE:** Any compound or material which is or may be harmful to human health, as defined by Section 4801, Subdivision 2 of the New York State Public Health Law.

**TRAFFIC IMPACT ANALYSIS:** A study of traffic patterns and analysis of potential impact of a new land use when it is estimated that more than 100 cars per day is to be generated from that new use.

**UNDERGROUND NATURAL GAS STORAGE:** Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities, and pipelines.

**VEHICLE/TRAILER DEALERSHIP:** Facility designed for the sale and service of automobiles, trucks, RV's, and trailers.

**VETERINARY CLINIC:** A facility for professional medical treatment or care of animals.

**USE:** The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

**VISUAL IMPACT ANALYSIS:** A process used to analyze the visibility of a project, structure, building, or use from a variety of points or locations. NYS DEC publishes guidance documents that outline procedures for conducting such an analysis

**USGS:** United States Geological Survey.

**VARIANCE:** An authorized departure by the Zoning Board of Appeals from the terms of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the

applicant, a literal enforcement of this Local Law would result in practical difficulty or unnecessary hardship as these requirements have been differentiated between and according to the criteria for each established in the respective Regulations and in case law.

**WAREHOUSE:** A building used primarily for the storage and distribution of goods and materials.

**WATERCOURSE:**

- i. Rivers, streams, brooks and waterways which are delineated on the most recent edition of the United States Geological Survey topographic maps of the Town.
- ii. Any other streams, brooks and waterways containing running water for a total of at least three (3) months a year.
- iii. Lakes, ponds, marshes, swamps, bogs, natural springs and all other bodies of water, natural or artificial, which are fed by or have discharge to another wetland, waterbody or watercourse.

**WATER SUPPLY SYSTEM:** An approved source and connecting supply system for the provision of water for any use required to have such system. Such system may include water derived from approved spring or well sources as part of an approved public, community or individual system as provided for in this Code.

**WETLAND:** Lands and submerged lands commonly called, but not limited to swamps, marshes, sloughs, bogs, flats, pools, vernal pools, fens, natural ponds, kettle ponds, wet meadows, lakes, and streams supporting aquatic or semi-aquatic vegetation as defined and used by the NYS Department of Environmental Conservation (DEC) and US Army Corps of Engineers (ACOE). The US ACOE or NYS DEC is the governing body for matters affecting wetlands, depending on the size of those wetlands. If wetland is less than 12.4 acres, US Army Corps of Engineers definition shall apply; If 12.4 acres or larger, NYS Department of Environmental Conservation definition shall apply.

**WOODSHED:** A roofed structure, with or without side walls, used for the storage of fuel wood.

**YARD, REQUIRED FRONT:** An open space extending across the entire width of the lot between the required building set back line and the front property line, (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

**YARD, REQUIRED REAR:** An open space extending across the entire width of the lot between the required rear set back line and the rear line of the lot, and unoccupied except for accessory buildings and open porches which in the aggregate shall not occupy not more than thirty-five (35) percent of the area.

**YARD, REQUIRED SIDE:** An open space on the same lot with a principal building existing between the required side yard setback line and the side property line of the lot, extending through from the front yard and to the rear yard. There shall be no extension of building parts other than eaves with an overhang of not more than two (2) feet, rain water leaders, window sills, and other such fixtures and open steps for a distance not exceeding four (4) feet in the required side yard.

**ATTACHMENT I ZONING SCHEDULE**

## Zoning Schedules

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % Of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (In Feet)			
			Area (In Acres)	Width Lot Front (Feet)		Stories	Feet	Front * Row/Center Line (Feet)	Side (Ft)	Rear (Ft)	
<b>R = Residential</b>	One-, Two-family dwelling		1 acre	150	25	2 1/2	30	50/75 or as per Section 13 (I)	15	35	
	Existing farm structure, use, and farm worker housing (See Section 14 (A))		n/a	n/a	n/a	n/a	n/a	50/75	15	35	
	See Section (20) (G) (24) for Standards										
	Athletic field		2 acres	200	25	2 1/2	30	n/a	n/a	n/a	
	Bed & Breakfast		1 acre	150	25	2 1/2	30	50/75	15	35	
	Church or Parish House		1 acre	150	n/a	n/a	n/a	50/75	15	35	
	Clubhouse		1 acre	150	25	2 1/2	30	50/75	15	35	
	Educational facility		2 acres	200	25	2 1/2	30	75/100	25	50	
	Farm Stand		Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards								
	Home occupation		n/a	n/a	25	2 1/2	30	50/75	15	35	
Medical/Dental Clinic		1 acre	150	n/a	2 1/2	30	50/75	15	35		
Nursing Home		1 acre	150	n/a	2 1/2	30	75/100	25	50		
Personal Service Shop		1 acre	150	25	2 1/2	30	50/75	15	35		
Public, semi-public structure, use		2 acres	200	25	2 1/2	30	75/100	25	50		
Public utility structure, use		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Radio, Television Transmission facility		As per requirements of Section 20 (G) 17.									

**NOTES:**

n/a - No standard applicable, requirements determined by the Planning Board.

## Zoning Schedules

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % Of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (In Feet)		
			AREA (In Acres)	WIDTH Lot Front (Feet)		Stories	Feet	Front * Row/Center Line	Side (Ft)	Rear (Ft)
R - H	1 and 2-family dwelling		2 acres	200	25	2 1/2	30	50/75 or as per Section 13 (I)	25	50
	Farm structure, use and farm worker housing (See Section 14 (A)) Small Scale Solar Energy Collector		10 acres	n/a	25	n/a	n/a	50/75	25	50
	Existing Commercial Structure, use		See Section (20) (G) (24) for Standards							
	Assembly, Special event		3 acres	200	25	n/a	n/a	50/75	25	50
	Bed & Breakfast		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Boarding House		2 acres	200	25	2 1/2	30	50/75	25	50
	Commercial Greenhouse		2 acres	200	25	2 1/2	30	50/75	25	50
	Commercial-highway structure, use		3 acres	200	n/a	2 1/2	30	50/75	25	50
	Family Care Facility		4 acres	200	25	n/a	n/a	75/100	25	50
	Farm Care Facility		2 acres	200	25	n/a	n/a	50/75	25	50
	Farm Implement Dealership		3 acres	200	n/a	2 1/2	30	50/75	25	50
	Farm Stand		Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards							
	Farm Market		Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards							
	Garage-Commercial		2 acres	200	n/a	2 1/2	30	50/75	25	50
	Gas Stations		n/a	200	n/a	2 1/2	30	50/75	25	50
	Home Occupation		n/a	n/a	25	n/a	n/a	50/75	25	50
	Hotel/Motel		3 acres	200	n/a	2 1/2	30	50/75	25	50
	Kennel		3 acres	200	n/a	2 1/2	30	50/75	25	50
	Light Industrial Uses		3 acres	200	n/a	2 1/2	30	50/75	25	50
	Multi-Family Dwelling: 3 units		3 acres	225	25	n/a	n/a	50/75	25	50
	Multi-Family Dwelling: 4 units		4 acres	250	25	n/a	n/a	50/75	25	50
	Personal Service Shop		2 acres	200	25	2 1/2	30	50/75	25	50
	Public, semi-public structure, use		2 acres	150	25	n/a	n/a	75/100	25	50

## Residential Highway

## Zoning Schedules

Public utility structure, use	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Restaurants	3 acres	200	n/a	2 1/2	30	50/75	25	n/a		
Retail Business	n/a	200	n/a	2 1/2	30	50/75	25	50		
Roadside stand	n/a	n/a	25	n/a	n/a	75/100	25	50		
Rooming House	2 acres	200	25	2 1/2	30	50/75	25	50		
Utility Scale Solar Energy Collector										
Warehouse	3 acres	200	n/a	2 1/2	30	75/100	25	50		
Vehicle Sales & Service	2 acres	200	n/a	2 1/2	30	50/75	25	50		
Veterinary Clinic	3 acres	200	n/a	2 1/2	30	50/75	25	50		
See Section (20) (G) (24) for Standards										

Residential  
Highway,  
Continued

n/a - No standard applicable, requirements determined by the Planning Board.

## Zoning Schedules

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (In Feet)			
			Area (In Acres)	Width Lot Front (In Feet)		Stories	Feet	Front * row/center line	Side (ft)	Rear (ft)	
R - R  <b>Residential Rural</b>	One-, Two-family dwelling		3 acres	200	20	2 1/2	30	75/100 or as per Section 13 (I)	25	50	
	Mobile Home		3 acres	200	20	2 1/2	30	75/100	25	50	
	Farm structure, use and farm worker housing (See Section 14 (A))		25 acres	n/a	20	n/a	n/a	n/a	25	50	
	Small Scale Solar Energy Collector		See Section (20) (G) (24) for Standards								
	Air Landing field		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Bed & Breakfast		3 acres	200	20	2 1/2	30	75/100	25	50	
	Cemetery, crematorium		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Commercial excavation		10 acres	n/a	20	2 1/2	30	100	100	100	
	Commercial recreation		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Family Care Facility		3 acres	200	20	2 1/2	30	75/100	25	50	
Farm Stand		Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards									
Garage-Commercial		3 acres	200	n/a	2 1/2	30	75/100	25	50		
Golf Course		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Home Occupation		n/a	n/a	20	2 1/2	30	75/100	25	50		
Kennel		3 acres	200	n/a	2 1/2	30	75/100	25	50		
Multi-Family Dwelling 3 units		4 acres	225	20	2 1/2	30	75/100	25	50		
Multi-Family Dwelling 4 units		5 acres	250	20	2 1/2	30	75/100	25	50		
Open Space recreation		n/a	n/a	n/a	n/a	n/a	n/a	75/100	25	50	
Personal Service Shop		3 acres	200	20	2 1/2	30	75/100	25	50		
Public, semi-public structure, use		5 acres	200	20	2 1/2	30	75/100	25	30		

## Zoning Schedules

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (In Feet)				
			Area	Width Lot Front		Stories	Feet	Front * row/center line	Side (ft)	Rear (ft)		
<b>Continued</b> <b>Residential Rural,</b>		Public utility structure, use	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Retail Business	3 acres	200	n/a	2 1/2	30	75/100	25	50		
		Riding Stable	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
		Roadside stand	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
		Rural Service shop, use	3 acres	n/a	20	2 1/2	30	75/100	25	50		
		Seismic Testing						See Section 20 (C)				
		Utility Scale Solar Energy Collector						See Section (20) (G) (24) for Standards				
		Veterinary Clinic	3 acres	200	n/a	2 1/2	30	75/100	25	50		

n/a - No standard applicable, requirements determined by the Planning Board.

## Zoning Schedules

### Residential Agriculture District Schedule

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % of Lot Coverage (Building Area)	Maximum Building Height		MINIMUM SET-BACK DIMENSIONS (IN FEET)				
			AREA (In Acres)	WIDTH Lot front (In Feet)		STORIES	FEET	Front * row/center line	Side (ft)	Rear (ft)		
R - A	One-, Two-family dwelling		4 acres	200	20	2 1/2	30	75/100 or as per Section 13 (I)	25	50		
	Mobile Home		4 acres	200	20	2 1/2	30	75/100	25	50		
	Farm structure, use and farm worker housing (See Section 14 (A))											
	Farm Stand		50 acres	n/a	20	n/a	n/a	75/100	25	50		
See Section 20 (G) (3) for requirements												
See Section (20) (G) (24) for Standards												
<b>Residential Agricultural</b>	<b>(Uses the same as for R-R but acreage adjusted)</b>	Air Landing field	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Bed & Breakfast	4 acres	200	10	2 1/2	30	75/100	25	50		
		Cemetery, crematorium	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Commercial excavation	10 acres	n/a	n/a	n/a	n/a	n/a	100	100	100	
		Commercial Recreation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Family Care Facility	4 acres	200	10	2 1/2	30	75/100	25	50		
		Garage-Commercial	4 acres	200	n/a	n/a	2 1/2	30	75/100	25	50	
		Golf Course	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Home Occupation	n/a	n/a	20	2 1/2	30	75/100	25	50		
		Kennel	4 acres	200	n/a	n/a	2 1/2	30	75/100	25	50	
		Multi-Family Dwelling 3 units	5 acres	225	10	2 1/2	30	75/100	25	50		
		Multi-Family Dwelling 4 units	6 acres	250	10	2 1/2	30	75/100	25	50		
		Open Space recreation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	75/100	25	50
		Personal Service Shop	4 acres	200	10	2 1/2	30	75/100	25	50		
Public, semi-public structure, use	10 acres	200	n/a	n/a	n/a	n/a	100	25	50			
Public utility structure, use	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a			
Retail Business	4 acres	200	n/a	2 1/2	30	75/100	25	50				
Riding Stable	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a			
Roadside stand	n/a	n/a	n/a	n/a	n/a	n/a	n/a	100	25	50		

## Zoning Schedules

	Rural Service shop, use	n/a	n/a	10	2 1/2	30	75/100	25	50
<b>Residential Agricultural, Continued</b>									
	Seismic Testing (except in Karst Areas)	See Section 20 (C)							
	Utility Scale Solar Energy Collector	See Section (20) (G) (24) for Standards							
	Veterinary Clinic	4 acres	200	n/a	2 1/2	30	75/100	25	50

n/a - No standard applicable, requirements determined by the Planning Board.

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (In Feet)		
			AREA (In Acres)	WIDTH Lot front (Feet)		Stories	Feet	Front * row/center line	Side (ft)	Rear (ft)
<b>R - C</b>	One-, Two-family dwelling		1 acre	150	25	2 1/2	30	50/75 or as per Section 13 (I)	15	35
	Existing Mobile Home		1 acre	150	25	2 1/2	30	50/75	15	35
	Retail Commercial Structure, use		2 acres	200	25	2 1/2	30	50/75	20	40
	Rural service shop, use		n/a	n/a	25	2 1/2	30	50/75	20	40
	Public, Semi-Public structure, use		2 acres	200	25	2 1/2	30	50/75	20	40
	Small Scale Solar Energy Collector		See Section (20) (G) (24) for Standards							
<b>Rural Center</b>	Bed & Breakfast		1 acre	150	25	2 1/2	30	50/75	15	35
	Family Care Facility		1 acre	150	25	2 1/2	30	50/75	15	35
	Farm Stand		Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards							
	Home Occupation		n/a	n/a	25	2 1/2	30	50/75	20	40
	Personal service structure, use		2 acres	200	25	2 1/2	30	50/75	20	40
	Public utility structure, use		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

## Zoning Schedules

Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards

	Farm Market
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### Open Space District Schedule

Districts	Principal Permitted Standard Uses	Uses Requiring Special Use Permit	Minimum Lot Requirements		Maximum % of Lot Coverage (Building Area)	Maximum Building Height		Minimum Set-Back Dimensions (in Feet)			
			Area (in Acres)	Width Lot front (in Feet)		Stories	Feet	Front * row/center line	Side (ft)	Rear (ft)	
<b>O - S  OPEN SPACE</b>	One-, Two-family dwelling		15 acres	n/a	5	1 1/2	20	100	50	100	
	Seasonal dwelling, club		15 acres	n/a	5	1 1/2	20	100	50	100	
	Municipal reservoir		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
	Farm structure, use and farm worker housing (See Section 14 (A))		50 acres	n/a	5	n/a	n/a	n/a	n/a	n/a	
	Forest Practices		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
	Small Scale Solar Energy Collector		See Section (20) (G) (24) for Standards								
		Commercial Excavation	15 acres	n/a	n/a	n/a	n/a	100	100	100	
		Open space recreation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
		Farm Stand	Site Plan Review Only and Operational Permit - See Section 20 (G) (3) for Standards								
		Utility Scale Solar Energy Collector	See Section (20) (G) (24) for Standards								

**NOTES:**

n/a - No standard applicable, requirements determined by the Planning Board.

## Zoning Schedules

<b>Flood Hazard District Schedule</b>	
<b>F - H</b>	<p style="text-align: center;"><b>Flood Hazard (Overlay)</b></p> <p style="text-align: center;">Planned Development Planned Residential, Planned Commercial, Planned Recreation, or Planned Light Industrial</p>
	<p>Agriculture, Open Space, Forestry, and open space recreation are permitted. All other non-agricultural structures are prohibited.</p>

**NOTES:**

n/a - No standard applicable, requirements determined by the Planning Board.

FINAL PAGE

**ATTACHMENT II MAP**

## **APPENDIX A - REQUIRED SUBMISSIONS**

Plans and data to be submitted in accord with the procedures as outlined in this Local Law shall be as required in Article 9, Section 334 of the Real Property Law where applicable. Required plats, plans and data to be submitted as required in accord with the procedures of the respective Regulations as outlined in this Code shall include the applicable information described below. Upon application and review by the Board responsible for consideration of the matter at hand the requirements for the submission of information may be modified to reflect the sophistication and complexity of the matter at hand.

### **I - Sketch Plan**

#### **A. Site Plan - To scale**

1. Location map showing location of proposed development or project in the Town, boundaries of the tract, contiguous properties and any zoning districts and easements.
2. Existing features including existing land use and agricultural activities, land and water areas (wetlands, streams, lakes), topography, bedrock outcrops or known karst features, and other important natural or cultural elements of the site.
3. General layout, including lot and street arrangement, where appropriate.
4. Aerial photo map of property if available.

#### **B. Development Data**

1. Total acreage of tract or parcel.
2. Proposed timetable or stages for sale or development.
3. Type of project, i.e., sale of lots, building, etc.
4. Existing and proposed roads, utilities and service facilities.
5. Proposed number of lots, typical lot size, general location of planned structures.

#### **C. Legal Data**

1. Names and addresses of owner, developer or subdivider and professional advisors.

## II - Preliminary Plat/Plan

A. Site Plan - Minimum scale of 1" = 100'; Preferred scale 1" = 40' to include:

1. Title, scale, north arrow and date.
2. Tract boundaries and owners of record of adjoining properties. If topographic conditions are significant, contours should be indicated.
3. Topographic data based on USGS or equivalent and other site characteristics including soils, drainage, wetlands, streams, floodplains, unique or rare or critical habitats, and tree cover. Include any pertinent natural features that may affect the proposed use including but not limited to, steep slopes (more than 15%), and rock outcrops,
4. Existing land use on and immediately adjacent to the parcel.
5. Lot layout, including adequate means to identify each lot and each block, minimum setback or building line.
6. Existing and proposed street layout, including name, width, right of way and improved surface widths, street names and typical cross sections of proposed roadways on and adjoining the property.
7. Location and description of utilities on and adjacent to the tract and proposed connection thereto, or alternative means of water supply, sewage disposal, electric, telephone and other service facilities.
8. Location, dimension and purpose of any easement.
9. Existing drainage ways and provision for collecting and discharging surface drainage and run-off.
10. Location, dimension and description of land or facilities to be dedicated or reserved for public use.
11. Location and size of existing use of buildings or premises, if any. Location, design, type of construction and exterior dimension of all proposed buildings and structures.
12. Anticipated traffic to be generated.
13. Identification of the amount of gross floor area or proposed division of building into units of separate occupancy, and hours of operation for retail sales and services, offices and other commercial or industrial facilities.

14. Location, design, type of construction and area of all parking and truck loading areas, including number of parking spaces and showing ingress and egress.
15. Provision for pedestrian access, including public and private sidewalks, if applicable.
16. Location of outdoor storage and solid waste disposal, liquid waste disposal, and location and description of any hazardous materials to be used or stored on site.
17. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
18. Description of the method of sewage disposal and the location of such facilities, including the location of the collection system.
19. Description of the method of securing water, location of such facilities, design and construction materials, approximate quantity of water required and location of distribution system.
20. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
21. Location, design and construction materials of all energy generation and distribution facilities, including electrical, gas, solar energy, and all power and communication facilities, including towers and satellite dish antennas.
22. Location, size, design and type of construction of all proposed signs.
23. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
24. Location and design of existing and proposed outdoor lighting facilities. The Planning Board may require a site plan to also contain
  - (1) Location of each current and proposed outdoor exterior lighting fixture.
  - (2) Type of luminaire equipment, including cutoff characteristics, indicating manufacturer and model number.
  - (3) Lamp source type, lumen output, and wattage.
  - (4) Mounting height indicated, with distance noted to nearest property line, for each proposed and existing luminaire.
  - (5) Shielding and all mounting details, including pole foundation description.
  - (6) Initial illuminance levels as expressed in foot-candle measurements on a grid of the site showing foot-candle readings in every five-foot square. The grid shall include light contributions from all sources (i.e., pole-mounted lights, wall-mounted lights, and signs, including streetlights).
  - (7) Statement of the proposed hours when each luminaire will be operated.
  - (8) Total exterior lighting lamp lumens for proposed property.

- (9) Lighting manufacturer specifications ("cut sheets") with photographs of the fixtures, indicating the cutoff characteristics of the luminaire.
  - (10) Detailed IESNA-formatted photometric data for each fixture at mounting height and lumens proposed. (Note: This is computer-generated data which is supplied by all manufacturers, describing the light output of a fixture, upon which lighting plans are based. This will allow the Planning Board to fully assess the suitability of a fixture in a lighting plan, should they wish to double check the submission.)
  - (11) Types of timing devices used to control on/off.
- 25. General landscaping plans and planting schedule.
  - 26. Location and identification of all structures and uses on adjacent lands within 100 feet of the property line.
  - 27. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.
  - 28. Estimated project construction schedule and cost.
  - 29. Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference.
  - 30. Elevation and façade treatment plans of all proposed structures.

#### B. Development Data

- 1. As required for Sketch Plan, as it may have been amended.
- 2. Feasibility data on sewer, to include percolation test, water and storm water drainage, including documentation from on-site investigation provided by Schoharie County Department of Health or private engineer.
- 3. Lineal feet of streets, acres in park or recreational areas.
- 4. If, the Planning Board, determines that a project could have traffic, visual or storm water impacts, the applicant shall submit, at its expense, traffic impact and drainage design reports, visual impact assessment, and proposed grading plans as follows. Costs for all reports, assessments, or plans required by the Planning Board shall be born by the applicant. Any traffic analysis may also need to be consistent with the Town of Sharon Road Preservation Law (Local Law #1 of 2012.
  - a. Traffic Report. Traffic Reports shall include the following for the study area:

1. Internal traffic flow analysis.
  2. Existing average daily traffic and peak hour levels.
  3. Analysis of average daily traffic and peak hour levels resulting from the project.
  4. An analysis of existing and resulting intersection levels of service (LOS).
  5. Directional vehicular flows resulting from the proposed project.
  6. Proposed methods to mitigate the estimated traffic impact.
  7. Identification of any pedestrian crossing issues.
  8. The methodology and sources used to derive existing data and estimations.
- b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered landscape architect or other qualified professional and shall include:
1. Visual illustration and evaluation of the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines and other major design elements).
  2. An analysis of the visual impacts on neighboring properties from the proposed development and alterations and of the location and configuration of proposed structures, parking areas, open spaces and gradient changes.
  3. A site plan rendering.
- c. Storm Water Management Plan. Whenever greater than one (1) acre of land is to be disturbed, the applicant shall prepare the Notice of Intent and post-construction erosion and storm water control plans pursuant to NYS DEC requirements. The contents of the storm water management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The storm water management and storm water pollution prevention plans shall be prepared in compliance with the Storm Water Design Manual of the New York State Department of Environmental Conservation (SPEDES) and with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations and as those regulations may be amended from time to time.

## C. Legal Data

1. Application

2. As required for Sketch Plan, and to include names of all adjoining property owners with tax map number as disclosed by the most recent municipal tax records.
3. All existing restrictions on the use of land including easements, covenants, or zoning lines.
4. Environmental Assessment Form, as required by the State Environmental Quality Review Act.
5. Agricultural Data Statement, if required, to include the following: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the Agricultural District, which land contains farm operations and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.
6. Required fees, if any.

### **III - Final Plat/Plan**

- A. Site Plan - Scale to be same as for Preliminary Plat/Plan. Copy to be filed in the office of the County Clerk shall meet standards set by that office.
  1. All data as required for Preliminary Plat/Plan.
  2. Tract boundary lines, right of way lines, easements and individual lot lines with accurate dimensions, bearings, radii, arcs, and central angles of all curves and locations and description of all monuments.
  3. Reference to adjoining platted land or names of owners of record of unplatted lands.
  4. Topographic data showing contours at a minimum of two (2) foot intervals related to USGS or other permanent bench mark where natural contours are to be changed; otherwise at five (5) foot intervals.
  5. All trees to be removed or within fifty (50) feet of any area where the natural contour is to be altered which are of eight (8) inch caliper or more as measured three (3) feet above ground level or where active agricultural operations are to be impacted.
  6. Typical cross-sections of streets, including pavement, shoulders, ditches, and walks and cross sections of drainage easements, as necessary.

7. Profiles of street center lines showing vertical curve data, slope of tangents and elevations of street intersections and other critical points.
8. Profiles of storm and sanitary sewers, if any, showing diameter of pipe, and distance between manholes and catch basins.

#### B. Development Data

1. As required for Preliminary Plat/Plan.
2. Detailed drawings and specifications for water supply, storm water disposal, sanitary sewage disposal and any other required facilities, services or installations.

#### C. Legal Data

1. As required for Preliminary Plat/Plan.
2. Certification of title showing that applicant is the land owner.
3. Certification by surveyor or engineer of survey and plat accuracy.
4. Protective covenants in form for recording, including covenants governing the maintenance of uncared public space or reservations.
5. Offers of cession dedicating streets, easements, open space and other facilities.
6. Approval by the State or County Health Department as applicable, of sewer and water facility drawings and proposals.
7. Approval by the Department of Environmental Conservation, or other state and Federal agencies, where applicable.
8. Copies of agreements showing the manner in which areas reserved by the sub divider or developer are to be maintained.
9. Certificate by a licensed professional engineer, licensed land surveyor and/or landscape architect as is appropriate, noting that required facilities have been designed to meet the minimum standards of this Code or as otherwise required by law.
10. Any other data as may be required by the Planning Board or Town Board for the enforcement of this Code including the posting of a Performance Bond to cover the full cost of improvements to be offered for dedication to, or to otherwise become the responsibility of, the Town.

11. Required fee, if any.

#### **IV - Drawings of Record**

- A. Drawings of Record will be filed upon completion of any required underground improvements. No certified check or performance bond shall be released until the drawings and documents listed below have been filed with and approved by the Town Board.
1. Facilities and improvements as located and constructed in accord with the Final Plat/Plan, certified to by a licensed land surveyor, professional engineer, architect and/or landscape architect, as is appropriate.
  2. All offers of cession, deeds, abstracts and easements for any street, sewer, water or other facilities as approved and certified to by the Town Attorney.

## **APPENDIX B – ENVIRONMENTAL ASSESSMENT**

This Environmental Assessment is prepared in accord with the requirements as set forth in HUD Handbook I, Chapter 4, Section 2. It is based on and designed to accompany the Final Report entitled Land Use Code for the Town of Sharon, New York prepared for the Town of Sharon, Schoharie County, New York under the Comprehensive Planning and Management Assistance Program, CPA-NY-02-00-1039.

### **I - Summary Description**

This Land Use Code is designed to provide land use and development regulations consistent with the needs and objectives of the Town of Sharon. It has been drafted to include under one cover and within one administrative framework several regulatory measures, including Building and Sanitary, Subdivision and Zoning Regulations.

Included within this Land Use Code for the Town of Sharon are four sections, each constituting a separate, but coordinated tool to effectively promote development in accord with appropriate standards and consistent with the Town Plan.

Part I - "Building and Sanitary Regulations" - is a streamlined building, housing and sanitary code aimed at the elimination and future prevention of housing, building and associated environmental problems in the Town.

Part II - "Subdivision Regulations" - includes the procedure and standards to insure the sound and well-ordered division of land into plats for sale or building purposes.

Part III - "Zoning Local Law" - includes those standards designed to guide development in the Town in accordance with the Town Plan by regulating the use, density and location of buildings and structures and the use of land in those unincorporated areas of the Town.

Part IV - "Appendices" - includes provisions for the Zoning Board of Appeals, Required Submissions, Definitions and this Environmental Assessment and is applicable to all three preceding parts of the Code.

Each of the land use regulations is designed to be adopted separately and to be incorporated within the framework of this Land Use Code to form a coordinated and consolidated system of land use controls in the Town of Sharon.

### **II - Environmental Impact of Plans and Policies**

The environmental impact of these land use regulations should be a positive one. They are intended to assure proper recognition to the natural, physical and social environmental conditions in the course of maintaining existing structures and installations and in the consideration of new developmental activities.

### **III - Adverse Environmental Effects**

These proposed land use regulations have no foreseeable adverse environmental effects. Rather, their explicit purpose is to recognize potential adverse impacts and, through the application of the standards and processes established in the regulatory measures, to preclude any significant adverse environmental impact.

### **IV - Alternatives**

The essential alternatives would be different regulatory standards or no regulations at all. The alternative of no land use regulation was discarded when the Town embarked on this program to prepare a comprehensive plan and accompanying regulations, and is therefore unacceptable. The proposed standards reflect the consensus of opinion after consideration of alternative approaches by the Planning Board and Town Board.

### **V - Short-Term, Long-Term Relationship**

The land use regulations attempt to recognize the need to relate existing conditions and immediate needs and situations to the long-term natural, physical and social environmental conditions in the Sharon community and their proposed enactment is designed to maintain and improve upon these conditions.

### **VI - Irreversible Commitments**

The commitment which this Land Use Code makes is to the intelligent consideration of the physical and socio-economic needs of the Town and is, therefore, considered a positive statement in this regard. The proposed land use regulations in and of themselves would result in no irreversible commitment of resources other than the financial resources necessary to properly administer them.

### **VII - Other Applicable Controls**

Other related environmental controls include those under the jurisdiction of the U.S. Environmental Protection Agency, the New York State Department of Environmental Conservation, the New York State Health and the Schoharie County Health Department. These agencies have established standards and are responsible for their administration in such areas as water supply, sewage treatment, solid waste disposal and water and air pollution. The Town regulations embodied in this Land Use Code are designed to complement and work in conjunction with the applicable requirements of these other jurisdictions.

In summary, this Land Use Code for the Town of Sharon is designed to have a positive impact on the Town environment, and more specifically, is designed to provide the basis that will assure that existing as well as new or changed development in the community

will be assessed as to any adverse environmental effects that might be generated and thus to prevent, or at least minimize such adverse impact.

**FINAL PAGE**