

A LOCAL LAW ENTITLED AMENDMENTS TO CREATE CHAPTER 109
RE SITE PLAN REVIEW

WHEREAS a public hearing was duly held on the __ day of _____ 20__ in the Shelter Island Town Hall, Shelter Island, New York, on a proposed Local Law entitled A LOCAL LAW ENTITLED AMENDMENTS TO CHAPTER 109 RE SITE PLAN REVIEW, and

WHEREAS all interested persons were heard in favor of or in opposition to the proposed local law, and

WHEREAS, the Town Board declares itself as lead agency and has prepared a Negative Declaration stating the reasons that the legislation will not have a significant environmental impact;

NOW, THEREFORE, BE IT RESOLVED that pursuant to the State Environmental Quality Review Act (SEQRA) and Chapter 60 of the Shelter Island Town Code, the Town Board has deemed this to be an Unlisted action, that it will not have an adverse effect on the environment and that a Negative Declaration is hereby issued, and

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

SECTION 1. Legislative Intent.

The Town Board finds that the Planning Board due to its collective knowledge of the construction practices, environment, and property design, is the proper board to review and decide upon Site Plan Review permit applications. The Planning Board has heretofore reviewed every Site Plan Review application and provided well-reasoned recommendations to the Town Board to act, thus they are well equipped to accept this delegation which will ensure effective process.

SECTION 2. Amendment.

Replace the existing Chapter 109, Site Plan Review with new Chapter 109 of the Shelter Island Town Code, Site Plan Review as follows:

Section 109-1. Applicability.

- A. All new land use activities or material expansion of existing land use activities within the town shall require site plan review and approval before being undertaken, except the following:
 - 1. Construction of one- or two-family dwelling and ordinary accessory structures, and related land use activities.
 - 2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
 - 3. Ordinary repair or maintenance or interior alterations to existing structures or uses.

4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 10% or 500 square feet, whichever is less

5. Nonstructural agricultural or gardening uses not involving substantial timber cutting.

6. Signs that meet Town Code chapter 133-27

7. Temporary structures used primarily for sale of agricultural produce.

8. Garage, lawn and porch sales not exceeding three days. If such sales take place more often than three (3) times in any calendar year, site plan approval will be required.

- B. Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the planning board for a written jurisdictional determination.
- C. Effect on existing uses. This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law, that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.
- D. Relationship of this law to other laws and regulations. This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

Section 109-2. Objectives of site plan procedure and review.

- A. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare, the economic impact, the comfort and convenience of the public in general, and the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this section and the accomplishment of the following objectives in particular.
- B. The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
 - 1. Traffic access. All proposed traffic access ways are adequate in number, width, grade, alignment and visibility, are located in proper relationship with intersections, pedestrian crossings and places of public assembly and are in conformance with overall traffic safety considerations, and such other state and municipal approvals as may be required. Roadway improvements not directly in front of the site may be necessary and required, based on overall traffic circulation and signalization of adjacent access points and streets.
 - 2. Interior circulation and parking. Adequate off-street parking and loading spaces are provided to satisfy the parking needs of the proposed uses on site and the

provisions of Chapter 133 of the Town Code, and the interior circulation system is so designed to provide convenient access to such spaces consistent with pedestrian safety.

3. Landscaping and screening. All required service, storage and similar areas are appropriately screened.
 4. Existing development. The proposed development considers existing development and zoning.
 5. Natural features. Due regard shall be paid to all-natural features on and adjacent to the site, including but not limited to water bodies, drainage courses, wetlands, marshes, dunes, bluffs, beaches, escarpments, woodlands, large trees, unique plant and wildlife habitat and flood hazard areas.
 6. Cultural features. Due regard shall be paid to all cultural features on and adjacent to the site, including but not limited to archaeological and paleontological remains, old trails, historic buildings and sites and agricultural fields.
 7. Lighting. All outdoor lighting is of such nature and so arranged as to preclude the projection of direct light and glare onto adjoining properties and streets and shall be in compliance with Chapter 83 (“Lighting”) of the Town Code.
 8. Drainage. The drainage system and layout proposal will afford an adequate solution to any drainage problems. Any construction activities involving soil disturbance of more than one acre shall be in compliance with the provisions of the MS4 program and NYSDEC regulations.
 9. Public and private utilities. The plans for water supply and sewage disposal, cable, telephone, electricity, gas, etc., shall be considered and included in this section and shall conform to such public requirements and standards as may exist.
 10. Public-address or sound system. Any sound or public-address system shall be in compliance with Chapter 92 (“Noise”) of the Town Code.
 11. Handicapped access. The plan and building design shall accommodate the needs of the handicapped and be in conformance with the state standards for construction concerning the handicapped.
- C. Nothing herein shall preclude the Planning Board from requesting neighboring properties to participate in the construction of joint or shared improvements, such as parking, access or drainage, provided that a problem has been identified which can be mitigated only by joint action and an implementation plan has been formulated to institute said mitigation.

Section 109-3. Submission Procedures

- A. A site plan could follow one of two tracks, depending on the nature of the application-- the administrative site plan or a formal site plan review.
- B. Pre-submission conference. Prior to the submission of a site plan, the applicant or his agent shall meet with the Planning Board. The purpose of such a conference shall be to discuss proposed uses or development in order to determine which of the site plan elements shall be submitted to the Planning Board in order for said Board to investigate

conformity with the provisions and intent of this chapter or whether the project should follow the administrative site plan process.

Section 109-4. Administrative Site Plan Eligibility

- A. In accordance with the procedures required by §109-5 for administrative site plan applications, the following applications, or any other deemed appropriate by way of the pre-submission conference, shall be eligible for administrative site plan review:
1. Amendments or modifications to previously approved site plans or legally existing structures, so long as:
 - a. The lot coverage is not increased or decreased by more than 10% or 500 square feet, whichever is less; and
 - b. The floor area is not increased or decreased by more than 10% or 500 square feet, whichever is less; and
 - c. The footprint of proposed structures and accessory structures does not deviate from the existing footprint of such structures by more than 10% or 500 square feet, whichever is less; and
 - d. The amendment or modification to the previously approved site plan conforms with the zoning requirements in place at the time of the application for administrative site plan review.
 2. Interior commercial renovation provided that any additional parking spaces can be accommodated without requiring an increase in lot coverage that would render the application ineligible for administrative site plan review.
 3. Change one grandfathered or permitted use to another permitted use in an already approved commercial site plan provided that any additional parking spaces necessary can be accommodated without requiring an increase in lot coverage that would make the application ineligible for administrative site plan review.
 4. Renewal of expired approved or conditionally approved site plans are allowed within 12 months of the expiration date so long as no changes to the previously approved site plan are being proposed.
 5. Changes to signage as approved by the Planning Board as part of an approved site plan.
- B. The Planning Board shall be solely responsible for determining whether an application is eligible for administrative site plan review in accordance with the procedures required for administrative site plan applications.

Section 109-5. Administrative Site Plan Application Procedure

- A. Administrative site plan review shall commence with an applicant providing a submission of an administrative site plan application to the Planning Board.
- B. As soon as practicable the Planning Board shall determine whether the application is complete. The Planning Board shall notify the applicant of said determination. If the Planning Board deems the application incomplete, the notice mailed shall list the

elements of the submission that need amendment in order for the application to be deemed complete.

- C. Review by committee. Once an application has been deemed complete, the application shall initially be reviewed by a committee of two members of the Board, selected by the Chairman, in consultation with the Planning Board Engineer. The Planning Board committee shall review the application and present its findings and recommendations to the remainder of the Planning Board. The Planning Board shall issue a determination, in writing, to:
1. Approve the administrative site plan;
 2. Approve the administrative site plan with conditions;
 3. Declare the application ineligible for administrative site plan review based upon its review and consideration of the factors set forth in Section 109-4, and refer the application for formal site plan review pursuant to the relevant requirements of this chapter.
- D. In determining whether to approve an application, the Planning Board shall consider the following factors:
1. The size of the subject parcel.
 2. The proximity of the applicant's premises to wetlands, endangered plant and animal species, wildlife and other similar environmental concerns.
 3. The extent of the proposed development and/or disturbance of the applicant's premises.
 4. The environmental significance, if any, of the applicant's parcel and the proposed development's impact upon the environment, including existing transportation resources.
 5. Compatibility of the proposed development with the recommendations of the Town of Shelter Island Comprehensive Plan.
 6. Dimensional compatibility of the proposed modifications with the already approved site plan.
 7. Changes in traffic, development or use of surrounding properties and roads since the approval of approved site plan.

Section 109-6. Administrative Site Plan Elements

- A. Submission. A complete administrative site plan application shall consist of:
1. A completed administrative site plan application form.
 2. An administrative site plan review fee.
 3. An environmental assessment form, Part 1, where required by Chapter 60 (“Environmental Quality Review”) of the Town Code.
 4. A site plan.
 - a. If an applicant is eligible for administrative site plan review pursuant to §109-4A(1)(b), (c) or (d), a site plan shall not be required as part of a submission so long as site conditions have not changed since the submittal of the most recently approved site plan on file in the Building Department. Nothing within this section shall prevent the Planning Board from

requiring a site plan for these applications if in its sole discretion it determines that other information is deemed necessary to determine conformity of the proposed site plan with the spirit and intent of this chapter.

- b. For applications for administrative site plan review pursuant to 109-4A(a), the applicant shall cause a site plan map at a minimum scale of one-inch equals 40 feet, to be prepared by an architect, landscape architect, civil engineer or surveyor that shall include the elements included in § 109-7 of this chapter. The Planning Board at its discretion shall have the authority to allow the site plan to omit those elements not necessary for making a determination on the issuance of an administrative site plan approval. In addition, nothing within this section shall prevent the Planning Board from requiring additional elements not included in §109-7 if in its sole discretion it determines that other information is deemed necessary to determine conformity of the proposed site plan with the spirit and intent of this chapter.
 - c. Unless waived by the Planning Board, plans for all required improvements must be submitted by a professional engineer or licensed architect or, if appropriate, a registered landscape architect. Installation of such improvements must be under the direct supervision of a registered architect or licensed engineer.
 - d. If an applicant is eligible for administrative site plan review, full color elevations of the approved signage and the proposed signage shall be required.
- B. Nothing within this section shall require an application to be deemed incomplete if the Planning Board determines an application for administrative site plan review to be complete.

Section 109-7. Formal Site Plan Review Application Procedure.

- A. Pre-submission conference. Prior to the submission of a site plan, the applicant or his agent shall meet with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements shall be submitted to the Planning Board in order for said Board to investigate conformity with the provisions and intent of this chapter.
- B. Within six months following the pre-submission conference, ten (10) copies of the site plan application and any related information shall be submitted to the Planning Board. Within a reasonable time after receipt of the application, the Planning Board shall determine whether the application is complete. If the Planning Board determines the application to be incomplete, it shall forthwith notify the applicant wherein the application is deficient.
- C. If the Planning Board determines the application to be complete, it shall transmit the application to the Building Department and any other municipal or county agency or

district that has jurisdiction or that is potentially affected by the proposed development, as deemed necessary by the Planning Board.

- D. Within 20 business days after receipt of the application, the Building Inspector shall certify on each site plan or amendment whether or not the plan meets the requirements of all provisions of chapter 133 Zoning, other than those of this section regarding site approval.
- E. The Planning Board shall conduct the public hearing within 62 calendar days of determining the application to be complete.
- F. Notice of the public hearing shall be given as follows:
 - a. The office of the Planning Board shall advertise a public hearing at least 10 days before such hearing
 - b. The applicant-or his agent shall also erect or cause to erect a sign or signs which shall be displayed on the parcel upon which the application is made, facing each public street on which the property abuts, giving notice that an application has been made to the Planning Board, and stating the time and place where the public hearing will be held. The sign(s) shall not be located more than 10 feet from the street line, and shall not be less than two nor more than six feet above the natural grade at the street line. The sign(s) shall be displayed for not less than 10 days immediately preceding the public hearing date. The applicant shall file an affidavit with the Planning Board that he has complied with the provisions of this section. Failure to submit such affidavit shall result in the adjournment of the public hearing.
 - c. At least 10 days prior to the hearing, the applicant shall mail notice of the time, date, place and nature of the hearing to the owners of record of every property which abuts and every property which is within 200 feet of the property involved in the application. Such notice shall be made by certified mail and addressed to the owners at the addresses listed for them on the local assessment roll. On or before the commencement of the public hearing, the applicant shall file a radius map and an affidavit with postal receipts annexed thereto confirming mailing of said notices. Failure to submit such affidavit shall result in the adjournment of the public hearing.
- G. Within 62 calendar days of the conclusion of the public hearing, the Planning Board shall inform the Building Inspector and the applicant, in writing, of its approval, approval with modifications or disapproval. This sixty-two-day period may be extended by the Planning Board upon the written consent of the applicant or as may be permitted under the State Environmental Quality Review Act as implemented by Chapter 60 (“Environmental Quality Review”) of the Town Code.
- H. No application shall be deemed complete until either a negative declaration has been made for the application pursuant to the State Environmental Quality Review Act (SEQRA) or by Chapter 60 of the Town Code or, if a positive declaration is made, until a draft environmental impact statement has been accepted by the Planning Board as satisfactory with respect to scope, content and adequacy. Reasonable time shall be

provided for compliance with the SEQRA, including the preparation of a final environmental impact statement.

- I. An approved site plan shall be valid for a period of two years from the date of approval unless a building permit is obtained. All work proposed on the plan shall be complete within two years from the date of approval unless a longer period was approved or the applicant obtains an extension from the Planning Board.
- J. No regrading or any other work in preparation of future use of a site may take place until site plan approval or written permission has been received from the Planning Board.
- K. In the case of a site plan application requiring a zoning variance or special use permit, the site plan shall be subject to a preliminary review by the Planning Board prior to action on said application by the Zoning Board of Appeals or Town Board. If the zoning variance or special use permit is approved by the Zoning Board of Appeals or Town Board, the approved application shall then be subject to a final site plan review by the Planning Board. Building permits issued pursuant to a variance or special use permit shall be in accordance with any conditions established by the Board of Appeals and Planning Board.
- L. No certificate of occupancy shall be issued until all requirements of site plan approval have been completed or an undertaking to complete them, with a cash deposit or other surety acceptable to the Town Board, shall have been given to and accepted by the Town Board. Such undertaking shall provide for completion on or before a certain time and, unless such time is extended by resolution of the Town Board, if the requirements of site plan approval have not been completed by such date, any certificate of occupancy which shall have been issued shall automatically become null and void. The determination of the Town Board whether such requirements have been completed shall be based on a recommendation from the Building Department and shall be final and binding where the same have not been completed before issuance of the certificate of occupancy.

Section 109-8. Formal Site Plan Review Elements.

- A. Submission. A complete site plan application shall consist of:
 - 1. A completed site plan application form.
 - 2. A site plan review fee.
 - 3. An environmental assessment form, Part 1, where required by Chapter 60 (“Environmental Quality Review”) of the Town Code or by state law.
 - 4. A site plan.
- B. Site plan. The applicant shall cause a site plan map at a minimum scale of one inch equals 40 feet to be prepared by an architect, landscape architect, civil engineer or surveyor. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or uses as indicated by the Planning Board in a pre-submission conference.
 - 1. Legal data.
 - a. The name and address of the owner of record.

- b. The name and address of the person, firm or organization preparing the map, sealed with the applicable New York State license seal and signature.
 - c. The date, North arrow and written and graphic scale.
 - d. The property description, prepared by a licensed surveyor or civil engineer. The site plan may reference a land surveyor's map or base reference map.
 - e. The locations, names and existing widths of adjacent streets and curb lines.
 - f. The location and owners of all adjoining lands and those lands directly across the street, as shown on the most recent tax records.
 - g. The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to the public use within or adjoining the property.
 - h. A complete outline of existing easements, deed restrictions or covenants applying to the property.
 - i. Existing zoning.
2. Natural features.
 - a. Existing contours with intervals of two feet or less referencing 1988 NAVD datum or other datum satisfactory to the Planning Board. In addition, spot elevations will be required where contour elevations are less than two feet on the site.
 - b. The approximate boundaries of any areas subject to flooding or stormwater overflows.
 - c. The location of existing natural features, including the mapping of all existing trees that are greater than 12 inches in diameter at 3 feet in height, and any other significant existing natural features.
 - d. The location of any existing cultural features.
3. Existing structures and utilities.
 - a. Outlines of all structures and location of all uses not requiring structures.
 - b. Paved areas, including parking areas, sidewalks and vehicular access between the site and public streets.
 - c. Locations, dimensions, grades and flow direction of any existing culverts or waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
 - d. Other existing development, including fences, landscaping and screening.
 - e. The location and use of all buildings and structures within 200 feet of the boundary of the subject property.
 - f. The location and distance of the closest fire hydrant or fire cistern.
4. Proposed development.
 - a. The location of proposed buildings or structural improvements, indicating setbacks from all property lines and horizontal distances from existing structures.

- b. The location and design of all uses not requiring structures, such as off-street parking and loading areas and pedestrian circulation. Parking calculations shall be shown.
- c. The location, direction, power and time of use for any proposed outdoor lighting or public-address systems.
- d. The location and plans for any outdoor signs, which must be in accordance with applicable sign regulations.
- e. Grading and drainage plans shall be based on retention of a two-inch rainstorm over a 24-hour period; drainage calculations, contours and spot grade elevations to be shown.
- f. Proposed landscaping, buffering and street tree plans, including material size, quantity and location. A list of plantings shall also be shown.
- g. The location of public water connection or private well and sewer mains or sanitary systems, electrical service and cablevision installations, locations of water valves and hydrants and/or any other utility.
- h. An indication that all storage areas for materials, vehicles, supplies, products or equipment shall be located in either a side or rear yard in compliance with this chapter and that such areas are adequately fenced or screened.
- i. If the site plan only indicates a first stage, a supplementary plan indicating ultimate development.
- j. The location of any fire hydrant, cistern, well or other fire-protection device.
- k. Any other information deemed by the Planning Board to be necessary to determine conformity of the site plan with the spirit and intent of this chapter or Chapter 133 (“Zoning”).

Section 109-9 Enforcement.

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than one thousand dollars (\$1,000) or by penalty of one thousand dollars (\$1,000) to be recovered by the town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

Section 109-10. Fees and Deposits.

- A. Application fee. Applicants shall submit the requisite fees with an application for a site plan or administrative site plan application, in an amount established from time to time by resolution of the Town Board.
- B. There shall be no fee associated with pre-submission conference.
- C. Expenses. In addition, applicants shall be liable for, and shall pay to the Town all of its expenses reasonably and necessarily incurred in connection with the application including, without limitations, all fees, costs and expenses for engineering, legal, and

stenographic services, environmental and other consultant services, and all recording fees that are reasonably and necessarily incurred in connection with the application.

- D. Initial deposit. The Town Board may from time to time by resolution establish and require deposits to be paid by applicants in connection with applications related to properties undergoing the site plan review, to secure the payment of the expenses required to be paid pursuant to this Section. The expenses for which the applicant is responsible shall be deducted from the deposit as incurred by the Town.
- E. Additional deposit. In the event, from time to time, the amount on deposit with the Town is reduced to twenty five percent (25%) of its original amount prior to final determination of the application and receipt by the Town of all invoices for the expenses required to be paid pursuant to this Section, the applicant shall deposit such additional funds as may be required to restore the amount on deposit to fifty percent (50%) of its original amount.
- F. Refund of unused deposit. In the event that the amount of the deposit shall exceed the expenses required to be paid pursuant to this Section, upon final determination of the application and receipt by the Town of all invoices for such expenses, the unused portion of the deposit shall be returned to the applicant.

SECTION 3. Authority

The proposed local law is enacted pursuant to Town Law §274-a and Municipal Home Rule Law §10.

SECTION 4. Severability.

The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

SECTION 5. Effective Date:

This Local Law shall take effect immediately upon filing with the Secretary of State.