

A LOCAL LAW REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION, ALTERATION AND USE OF BUILDINGS AND LAND IN THE CITY OF SHERRILL, NEW YORK, PURSUANT TO THE PROVISIONS OF CHAPTER 21, ARTICLE 2A OF THE CONSOLIDATED LAWS OF THE STATE OF NEW YORK.

THE CITY COMMISSION OF THE CITY OF SHERRILL by virtue of the power and authority vested in it by law does hereby ordain and enact as follows:

ARTICLE 1 - TITLE

Section 1 – This local law shall be known and may be cited as “The Zoning Regulations of the City of Sherrill, New York”.

ARTICLE 2 - PURPOSE

Section 2 – Purpose and General Rules.

1. These Regulations are enacted for the following purposes:
 - a. to lessen congestion in the streets
 - b. to secure safety from fire, flood, panic and other dangers
 - c. to promote health and the general welfare of the public
 - d. to provide adequate light and air and acceptable noise levels
 - e. to prevent the overcrowding of land
 - f. to avoid undue concentration of population
 - g. to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements
 - h. to preserve the value of buildings and property and the overall character of the City
 - i. to encourage the most appropriate use of land throughout the City
2. General Rules Governing All Zoning Districts
 - a. Land shall only be used for the purposes permitted in the district in which it is located.

- b. Buildings erected, converted, enlarged, reconstructed, moved or structurally altered; or any part thereof shall be done so according to the regulations of the district in which the building is located.
- c. If a use in any structure is hereafter changed to another use then the new use shall comply with these regulations.

ARTICLE 3 - DISTRICTS AND BOUNDARIES

Section 3 – Establishment of Districts.

The City of Sherrill is hereby divided into the following zoning districts:

- R-1 One Family District
- R-2 Two Family District
- C-1 Commercial District
- C-2 Commercial District
- M-1 Manufacturing District
- M-P Manufacturing-Planning District

Section 4 – Zoning Maps.

The locations and boundaries of the zoning districts hereby established are shown on a map entitled “City of Sherrill, Oneida County, New York Zoning Map” (the “Zoning Map”). The Zoning Map and all notations, references and other information shown thereon are hereby declared to be a part of these Regulations. The City Manager shall delineate on the Zoning Map all amendments to the District boundaries, which are authorized by ordinance/local law immediately upon the effective date of such ordinance/local law, indicating the title and date of the ordinance/local law.

Section 5 – District Boundaries.

Where uncertainty exists as to the locations of any boundaries shown on the zoning map, the following rules shall apply:

1. District boundary lines are intended to follow centerlines of streets and alleys, rights-of-way, watercourses, or lot lines, or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimensions as shown on the zoning maps.
2. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

3. In subdivided land and where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

4. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Zoning Board of Appeals shall determine and fix the location of said line.

ARTICLE 4 – USE REGULATIONS

Section 6 – R-1 One Family District.

In any R-1 One Family District no building shall be erected or extended and no land or building or part thereof shall be used except for any of the following purposes:

1. One-family dwellings
2. Farms and nurseries
3. Formal places of worship or religious education and related living quarters i.e. convent, parish house or rectory
4. Public or private schools or public libraries
5. Public park or playground
6. Golf course
7. Residential daycares per N.Y.S. rules and regulations
8. Accessory structure(s), as per Section 19, there shall be no more than three accessory structures, including structures attached or detached. The combined square footage of the three accessory structures cannot exceed the limits allowed. The height of a detached accessory structure(s) cannot exceed eighteen (18) feet max height and must adhere to setback regulations, as defined. Accessory structures in R-1 or R-2 Residence Districts may not include any activity commonly conducted as a business.
9. Customary home occupation or profession conducted in a residence by resident occupants that do not impact the surrounding neighborhood in any significant way such as excessive traffic, deliveries, parking overflow or noise. Nor shall any retail finished products be stocked or offered for sale on the premises unless it is an incidental aspect to the home occupation and there shall be no external evidence of such occupation except one (1) sign as permitted in Section 23 of these Regulations.

10. Municipal use

11. Temporary Structures

12. The following uses, subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit:

- a. Nursing or convalescent home
- b. Non-profit housing
- c. Attached dwellings

Section 7 – R-2 Two Family District.

In any R-2 Two Family District no building shall be erected or extended and no land or building or part thereof shall be used except for any of the following purposes:

1. Any use permitted in the R-1 One Family District
2. Two-family dwellings
3. Three family dwellings created by conversion of structures existing at the time of adoption of these Regulations which do not alter the footprint of the existing structure; and provided further that there shall be one off-street parking space provided in the side or rear yard for each dwelling unit.
4. Charitable or philanthropic institutions
5. Bed & Breakfast
6. The following uses, subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit:
 - a. Club, lodge, social and recreational building
 - b. Attached dwellings

Section 8 – C-1 Commercial District.

In any C-1 Commercial District, no building shall be erect or extended and no land or building or part thereof shall be used except for any of the following purposes:

1. Any use permitted in the R-2 Two Family District

2. Business, professional or governmental office
3. Bank or other financial institution
4. Retail store to include liquor stores
5. Restaurant and/or restaurants with drive through service lanes
6. Confectionery, bakery, millinery, dressmaking, tailoring, florist, and similar shops, provided that all goods made or processed on the premises for retail sale.
7. Personal service shops such as barber, shoe repair, beauty parlor, photographer, optician, letter press and offset printing shop
8. Radio, television, computer, technology and household appliances sales and service/repair.
9. Dry cleaning and pressing shops
10. Laundries and/or laundromats
11. Studios – music, dance, theatrical
12. Funeral Homes
13. Public utility or municipal structure
14. Business sign shop
15. Automotive fuel/service station, car wash, convenience store subject to approval by the Zoning Board of Appeals, as provided in Section 46.2.e.
16. Convenience Store
17. Hospital
18. Firehouse
19. Planned shopping center
20. The following uses, subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit:
 - a. Motels, hotels and apartment houses

- b. Public garages
- c. Attached dwellings

Section 9 – C-2 Commercial District.

In any C-2 Commercial District no building shall be erected or extended and no land or building or part thereof shall be used except for any of the following purposes:

1. Any use permitted in the C-1 Commercial District
2. Fruit and vegetable market
3. Automobile and farm machinery sales and service and heavy equipment
4. club, lodge, social and recreational buildings
5. Printing and publishing
6. Light manufacturing & assembly plants
7. Development and Research Centers
8. Animal hospital, kennel or pound
9. Garage, public & private storage
10. Laboratories or scientific sample collection centers.
11. Tattoo parlor
12. The following uses, subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit:
 - a. Marijuana dispensaries; regardless as to whether it is for medical and/or recreational use
 - b. Attached dwellings

Section 10 – M-1 Manufacturing District.

All non-residential buildings, structures and uses herein before allowed in Sections 6, 7, 8 and 9 are hereby allowed in the M-1 Manufacturing District, and

1. Any other trade or industry, subject to initial and continued compliance with performance standards as prescribed in Article 5, the use of which does not by reason of the emission of noise, dust or odors become obnoxious or dangerous to the health and safety of the public.

2. It is the intent to include adult entertainment in the M-1 District to provide for adult entertainment establishments, subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit. However, such establishments, by their nature, are known to produce deleterious effects on adjacent development and the blighting and downgrading of surrounding neighborhoods, especially where such establishments are clustered. Special regulations of such uses are therefore necessary to ensure that these and other adverse secondary effects will not impact residential neighborhoods, public and quasi-public institutions and facilities serving the youth of the community.

Adult entertainment to include but not limited to escort agencies, adult movie, book and/or video store, adult entertainment establishment, adult cabarets, nightclubs or bars which feature live entertainment that consist in any way of topless or bottomless females and/or males, adult novelty store and other businesses related to adult entertainment activities shall be subject to the following:

- a. Merchandise or activities of the establishment shall not be visible from any point outside of the building or structure containing the use; or
- b. The observation of any material depicting, describing or relating to sexual activities from any point outside of the building or structure containing such use is prohibited.
- c. The provisions of Subsections 2.a. and 2.b. above shall apply to any display, decoration, sign, and window^[1] or other opening.
- d. No adult use as set out in Sec. 10-2 above shall be allowed within 1,000 feet of another existing adult use.
- e. No adult use as set out in Sec. 10-2 above shall be located within 1,000 feet of an R-1 One Family District or R-2 Two Family District.
- f. No adult use as set out in Sec. 10-2 above shall be located within 1,000 feet of any bar or tavern.
- g. No adult use as set out in Sec. 10-2 above shall be located within 1,000 feet of an existing church or place of worship, child care center or educational institution.
- h. For purposes of Subsections d., e., f., and g., above, measurements shall be made in a straight line, without regard to intervening buildings, structures or

objects, from the nearest point on the property line of the proposed adult entertainment use to the nearest point on the property line of the said uses.

- i. No more than one adult entertainment use shall be conducted within any building or structure containing an adult use.
 - j. All adult entertainment uses shall be subject to all other articles of the zoning regulations and any other applicable city codes.
3. Warehousing and distribution but not including truck terminals
 4. Light manufacturing and assembly plants for the following uses:
 - a. Manufacturing, compounding, processing and packaging of such products as candy, and food products
 - b. Manufacturing, compounding, assembling, recycling or treatment of articles or merchandise from the following previously prepared materials:
 - paper
 - plastics
 - precious or semi-precious metals or stones
 - textiles
 - wood
 - c. Manufacture or assembly of electrical or electronic instruments or devices, precision measuring devices, surgical or dental instruments, musical instruments, rubber or metal stamps, toys or novelties.
 5. Cellular telephone towers and antennas.
 6. The following use is subject to approval by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit:
 - a. Attached dwellings
 - b. Apartment houses

In the M-1 Manufacturing District, the use of buildings and land for any of the following purposes is prohibited:

1. Incineration of garbage, offal or refuse
2. Manufacture of fertilizer and bone grinding
3. Slaughter of animals or meatpacking industry

4. Celluloid manufacture, treatment or storage
5. Junk, scrap metal, automobile salvage and similar uses
6. Rubber reclaiming plants, smelters or blast furnaces; tanning, curing or storing of raw hides or skins, coke ovens
7. And in general, any use similar to those enumerated above which would be injurious to the safety or welfare of the neighborhood by reason of smoke, odor, vibration, dirt, dust, glare, noise, or danger of fire or explosion

The above uses may be approved or modified by the Zoning Board of Appeals as provided in Section 46.2.e., Special Use Permit.

Section 11 – M-P Manufacturing-Planning District.

The regulations for the M-P Manufacturing-Planning District are intended to provide a means for the establishment of a community of industries developed according to a comprehensive plan, so located and designed as to be compatible with surrounding areas and uses and to contribute to the economic growth of the City.

In the M-P Manufacturing-Planning District the following buildings and uses are permitted:

1. Anything permitted in the C-2 Commercial District
2. Public utilities station or structure
3. Municipal building or structure
4. Printing or publishing plant
5. Commercial truck sales and/or service

Permitted accessory uses shall include parking, loading and storage areas, and business signs, all of which shall be planned as an integral part of the site and structures, and be located on the same site with the principal use.

Within the M-P Manufacturing-Planning District, the following minimum requirements shall apply:

1. Area. Each development within a M-P Manufacturing-Planning District shall include a minimum site of 1 acre.

2. Off-street parking shall be provided at a minimum ratio of one space for each two employees on the major shift. Off-street parking and loading shall be in side and rear yard only.
3. Yards:
 - a. Front yard - 50 feet minimum
 - b. Side yard - 50 feet minimum
 - c. Rear yard - 100 feet minimum
4. Building coverage shall not exceed 25 percent of parcel.
5. Building height shall not exceed three stories.

Application for a M-P Manufacturing-Planning District development shall be made to the City Commission. The City Commission shall refer the application to the Planning Board for consideration as to area, off-street parking, ingress and egress, yards, building coverage and building height.

The Planning Board shall require the applicant to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development.

The Planning Board may require such changes in said plans, drawings, elevations and specifications as are found to be necessary to meet the requirements of these Regulations. The Commission may make such additional requirements as are reasonably necessary to protect established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the City. In reaching its decision on the proposed development and the changes, if any, in the preliminary plans, drawings, elevations and specifications, the Planning Board shall be guided in its considerations by performance standards as to the following:

1. Fire and explosion hazards
2. Radioactive or electrical disturbance
3. Noise
4. Vibration
5. Glare
6. Smoke
7. Odor
8. Other forms of air pollution

The Planning Board shall approve, approve with modifications, or disapprove such application and shall report its decision to the City Commission.

In the event that substantial progress has not been made in the execution of the construction authorized by the City Commission within six (6) months from the date of approval, such approval shall be deemed subject to the same regulations and restrictions as were effective before such approval. The City Commission may extend its approval for additional periods of six (6) months.

ARTICLE 5 – INDUSTRIAL PERFORMANCE STANDARDS

Section 12 – General Application.

Uses permitted in any M-1 Manufacturing or M-P Manufacturing-Planning District, and uses accessory thereto, are subject to the following performance standards and procedures.

Section 13 – Performance Standards Procedures.

1. Any application for a building permit or a business permit for a use which shall be subject to performance standards, shall include a description of the intended use, which shall be in accordance with the performance standards set forth herein.

2. Continued Compliance. Continued compliance with performance standards is required and enforcement of continued compliance with these performance standards shall be enforced by the Codes Enforcement Officer.

3. Determination of Violation. The Codes Enforcement Officer shall investigate any purported violation of performance standards and, if there is reasonable ground for the same, shall notify the City Manager of the occurrence or existence of a probable violation thereof. The City Manager shall investigate the alleged violation. If after a hearing on due notice, the City Commission finds that a violation occurred or exists, such violation shall be remedied as provided in the following paragraph.

4. Remedy of Violation. All violations, as ascertained in accordance with paragraph 3 above shall be remedied within thirty (30) days of the decision of the City Commission or shall be deemed a separate violation for each day following and subject to fines as set forth herein, except that certain uses established before the effective date of these Regulations and nonconforming as to performance standards shall be made to conform therewith within 30 days as determined by the City Commission, unless especially granted by the City Commission.

Section 14 – Regulation of Nuisance Elements.

1. Definition of Elements. No land or building in any M-P Manufacturing-Planning District which shall be used or occupied for manufacturing purposes shall be operated in such a

manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as “dangerous or objectionable elements”); provided that any use permitted by these Regulations may be undertaken and maintained in the M-P Manufacturing-Planning District if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

2. The determination of the existence of any dangerous and objectionable elements shall be made at:

- a. The point or points where such elements shall be most apparent for fire or explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
- b. The property lines of the use creating such elements for noise, for vibration, for glare, and for odors.

Section 15 – Standards to be Enforced.

1. Fire and Explosion Hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and local laws and regulations shall also apply.

2. Radioactivity or Electrical Disturbance. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. All applicable Federal regulations shall be complied with.

3. Noise. At the points of measurement specified in Section 14, paragraph 2b the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table 1 after applying the corrections shown in Table 2. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., New York, N.Y. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, 224.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y. shall be used.)

TABLE 1

| <u>Frequency Ranges Containing Standard Octave Bands in Cycles Per Second</u> | <u>Octave Band Sound Pressure Level in Decibels re 0.0002 dyne/cm</u> |
|---|---|
| 20 - 75 | 65 |
| 75 - 150 | 55 |
| 150 - 300 | 50 |
| 300 - 600 | 45 |
| 600 - 1200 | 40 |
| 1200 - 2400 | 40 |
| Above - 2400 | 35 |

If the noise is not smooth and continuous and is not radiated between the hours of 10 p.m. and 7 a.m., one or more of the corrections in Table 2 shall be applied to the octave band levels given in Table 1.

TABLE 2

| <u>Type of Location of Operation or Character of Noise</u> | <u>Correction in Decibels</u> |
|---|-------------------------------|
| 1. Daytime operation only | 5 |
| 2. Noise source operates less than* | |
| a. 20% of any one-hour period | 5 |
| b. 5% of any one-hour period | 10 |
| 1. Noise of impulsive character (hammering, etc.) | -5 |
| 2. Noise of periodic character (hum, screech, etc.) | -5 |
| 3. Property is located in any M-District and is not within 200 feet of any R-District | 10 |

4. Vibration. No vibration shall be permitted which is detectable without instruments at the points of measurement specified in Section 14, paragraph 2b.

* Apply one of these corrections only.

5. Glare. No direct or sky-reflected glare, whether from flood lights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified in paragraph 2b. This restriction shall not apply to signs otherwise permitted by the provisions of these Regulations.

6. Smoke. No emission shall be permitted from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart,

published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile reduction of a standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 3 on said chart may be emitted for 4 minutes in any 30 minutes.

7. Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable at the property line of the zone lot from which they are emitted without instruments.

8. Other Forms of Air Pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animal, vegetation, or other forms of property, or which can cause any excessive soiling.

ARTICLE 6 - LOT AREA AND WIDTH, YARDS, BUILDING COVERAGE AND HEIGHTS

Section 16 – Additional Area Regulations.

1. Lots of less than required dimensions

- a. Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of these Regulations and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.
- b. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Zoning Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.
- c. A single story garage attached to a dwelling may be constructed not nearer than five feet to the property side line, provided that the lot is 70 feet or less in width, and further provided that said lot was held under separate ownership at the time of adoption of these Regulations and the owner thereof owns no adjoining land that could be combined with said lot to meet the dimension required.

2. Reduction of Lot Area. The minimum yards and open spaces, including lot area per family, required by these Regulations for any building existing at the time of adoption of these

Regulations, or for any building thereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of these Regulations..

3. Corner Lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a zoning permit. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of these Regulations to less than twenty-four (24) feet.

4. Visibility at Street Corners. 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 feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.

5. Front Yard Exceptions. The front yard of all buildings and structures hereafter constructed within a One Family District and Two Family District shall be not less than the average front yard of all buildings in the block for a distance of 300 feet on each side of such building. An adjacent vacant lot shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

6. Transition Yard Requirements

- a. Where two districts abut on the same street between two intersecting streets, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to one-half the required depth for the front yard in the more restricted district.
- b. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.

7. Projecting Architectural Features, Terraces, Porches, Fire Escapes

- a. The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and architectural features, provided, however, that such features shall not project more than 2 feet into any required yard.
- b. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is

unroofed and without walls, parapets, or other form of enclosure exceeding 6 feet in height.

- c. In determining the percentage of building coverage or the size of yards for the purpose of these Regulations, enclosed porches, or porches open at the side but roofed, shall be considered a part of the building.
- d. An open fire escape may extend into any required yard not more than 6 feet, provided that such fire escape shall not be closer than 4 feet at any point to any lot line.
- e. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed 6 feet.

8. Walls, Fences and Hedges.

- a. The yard requirements of these Regulations shall not prohibit any necessary retaining wall nor any fence, wall or hedge, provided that in the One Family District and Two Family District, no fence or wall shall exceed 4 feet in height in any front yard or 6 feet in height in any side or rear yard.
- b. Fences and walls shall be set back a minimum of 2 feet from the front lot line, and 1 foot from side and rear lot lines, and shall comply with visibility at street corners as provided in Section 16(4) of this Article.
- c. Fences shall be constructed with the exterior (good) side of the fence facing out, and with the wiring, structural elements, or other components of the fencing which are not designated for presentation to the public facing toward the interior of the property.
- d. In any district, no hedge, shrubbery, or other landscape structure shall exceed 4 feet in height in any front yard, or 15 feet in height in any side or rear yard. All hedges, shrubs, or other landscape structure shall be planted no closer to any lot line than 4 feet when measured from the center of the rootball.
- e. No wall, fence, landscape structure, grading, or drainage activity shall cause a diversion of drainage to adjoining public or private property.

9. Minimum Lot Sizes.

- a. Residential lots not served by public sewer shall not be less than one hundred (100) feet wide at the building setback line, nor less than twenty thousand (20,000) square feet in total area, except where percolation tests, in the opinion of the City Engineer (or the City Manager, if there be no City Engineer), require that there be additional area.

- b. In hillside locations, a slope policy is hereby implemented to require minimum lot sizes, determined by average lot slope, as follows:

| Degrees | Lot Area (in square feet) | | Average Lot Width (in feet) | |
|---------|------------------------------|----------------|--------------------------------|----------------|
| | With Sewers | Without Sewers | With Sewers | Without Sewers |
| 0-10 | 10,000 | 20,000 | 100 | 100 |
| 10-20 | 15,000 | 20,000 | 100 | 120 |
| Over 20 | 1 acre | 1 acre | 150 | 200 |

10. Driveways.

- a. Total opening of all curb cuts shall not exceed twenty-five (25) feet.
- b. No more than one (1) curb cut on parcels with sixty (60) feet or less of road frontage, and no more than two (2) curb cuts on a parcel greater than sixty (60) feet of road frontage in any district.
- c. The total square feet of the driveway shall not exceed thirty-five percent (35%) of the parcel's frontage, as measured by the total area from the front of the structure to the City's right of way.
- d. The section of the driveway in the City's right of way must be constructed with a hard surface (e.g. asphalt, concrete, brick, stone).
- e. Driveways must remain five (5) feet from the neighbor's property line.
- f. All driveway work requires a permit to be issued by the Code Enforcement Officer, with the exception of driveway sealcoating.

Section 17 – Additional Height Requirements.

1. Chimneys, Spires, etc. The height limitations of these Regulations shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, radio and satellite 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. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.

2. Through Lots. On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

Section 18 – Residential Floor Area Requirements.

Minimum residential ground floor areas, measured from the exterior faces of exterior walls, exclusive of garages and open porches, are as follows:

| | <u>District</u> | <u>No. of Stories</u> | <u>Minimum Ground Floor Area Per Dwelling</u> |
|----------------------|-----------------|-----------------------|---|
| One Family District | R-1 | Less than 2 stories | 1,000 |
| | | Two or more stories | 800 |
| Two Family District | R-2 | Less than 2 stories | 800 |
| | | Two or more stories | 700 |
| Commercial Districts | C-1 & C-2 | Less than 2 stories | 600 |
| | | Two or more stories | 600 |

Section 19 – Accessory Structures: Number, Height and Location.

1. Number. There shall be not more than three (3) accessory structures, including garages (attached or detached). Apartment Houses (as defined in Article 18) must seek accessory structure approval through the Site Plan Review process outlined in Article 15.

2. Structure Maximum height: Attached accessory structure height shall not exceed the height of the principal building. Detached accessory structure(s) shall not exceed the height of the principal building nor be greater than eighteen (18) feet at the highest point. Height of detached Accessory Structure(s) shall be measured from original natural soil elevation prior to any earthwork or excavation. For lots with incline/decline, the height shall be measured from the lower elevation of the front, side or back of accessory structure.

3. Location and total size: Accessory structures in R-1, R-2 and C-1 Districts: Accessory Structure(s): Detached-Accessory Structure(s) shall not be allowed in the front yard. Detached Accessory Structure(s) may be placed or erected within the side or rear yard so long as they are not closer to a principal building than 10 feet and are in accordance with the following requirements:

Total square footage shall include attached and detached Accessory Structures.

- a. Lot size 10,000 sq. ft. and below
Total square footage: 750 sq. ft.

Rear and Side Setbacks: 5 ft. from property lines

- b. Lot size 10,001 sq. ft. – 20,000 sq. ft.
Total square footage: 1,000 sq. ft.
Rear Setback: 10 ft.
Side Setback: 5 ft. from all property lines.
- c. Lot size 20,000 sq. ft. and above.
Total square footage: 1,500 sq. ft.
Rear and Side Setbacks: 10 ft. from all property lines.
- d. Corner lot – same as for principle building in regards to street side setbacks in Schedule A.

4. Accessory Structures may be Temporary Structures provided that they do not remain in place for more than six months during any twelve month period, are properly anchored, and comply with New York State building code, including wind shear and snow load specs. Structures such as automobile ports, canopies, and the like, will require engineered plans for permanent use.

5. Accessory Structures in C2 and M1 Districts. Non-dwelling accessory structures shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet.

Section 20 – Dwelling Units in C-1 or C-2 Commercial or M-1 or M-P Manufacturing Districts.

In any C-1 or C-2 Commercial or M-1 or M-P Manufacturing Districts the requirements for lot area, lot width, side yards, and rear yards as specified for dwellings in the R-2 District shall apply to any commercial or manufacturing building in which one or more dwelling units are also located.

In lieu of the above requirement for such buildings, there may be provided on the lot at ground level free, accessible and usable open space of at least 400 square feet for each dwelling. Said open space shall not be used for storage, automobile parking, accessory buildings or other uses, but shall be available and usable for outdoor recreational use and for household activities which are normally carried on outdoors.

ARTICLE 7 – SUPPLEMENTARY REGULATIONS

Section 21 – Lots in Two Districts.

Where a district boundary line divides a lot held in one ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend not more than

50 feet into a more restricted portion provided the lot has frontage on a street in the less restricted district.

Section 22 – Commercial Excavation.

Except when incidental to the construction of a building on the same lot, the excavation and removal of sand, gravel, top soil, clay or other natural mineral deposit, or the quarrying of any kind of rock formation is subject to the approval of the Zoning Board of Appeals. Before issuing a permit for such use the Zoning Board of Appeals shall find that such excavation or quarrying will not endanger the stability of adjacent land nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic congestion, or other condition. The Zoning Board of Appeals may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, and

- a. The final slope of material in any excavation or pit shall not exceed the normal limiting angle of repose of such material.
- b. The Zoning Board of Appeals shall specify the minimum distance between the nearest street and property line and the nearest excavation which will be permitted consistent with the public welfare.
- c. The area involved in the commercial excavation shall be restored to a safe, sanitary property drained area and shall be made to conform with the adjacent area.

The Zoning Board of Appeals shall, on its own initiative or upon the petition of any resident within 500 feet from the commercial excavation in question, after a public hearing, have the power and authority to revoke a permit previously granted if its continued use shall be found to endanger the stability of adjacent land or constitute a detriment to public welfare, convenience or safety. The Zoning Board of Appeals may decline to issue a permit for commercial excavation in any R-1 One Family District and R-2 Two Family District if it deems such proposed excavation would be contrary to the public interests.

Section 23 – Signs.

1. Purpose and intent of sign regulation. It is the purpose and intent of this section to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor signs of all types; to protect property values; to create a more attractive and economic business climate; to enhance and to protect the physical appearance of the community; to reduce sign and advertising distraction and obstructions that may contribute to traffic accidents; to reduce hazards that may be caused by signs occupying, overhanging or projecting into the public right of way; to provide more open space and to curb the deterioration of the community development.

2. No sign shall be erected or maintained in the City of Sherrill except in compliance with the provisions of this section.

3. R-1 One Family District and R-2 Two Family District. No sign shall be erected or maintained in any R1 One Family District or R-2 Two Family District of the City of Sherrill except in compliance with the provisions of this paragraph.

- a. Identification Sign. One (1) identification sign may be erected and maintained on a residential parcel identifying the name and/or street address of the occupant thereof. Such sign shall not exceed two (2) square feet in area, shall not have a dimension in excess of 6:1 ratio length to width, and no part thereof shall be erected or maintained more than ten (10) feet above ground level. Such sign may be illuminated. Such sign shall not be located nearer than three (3) feet to the city's sidewalk or, if there be none, then not nearer than ten (10) feet to the paved portion of the road.
- b. "For Sale" or "For Rent" Sign. One (1) sign announcing the parcel on which it is located to be for sale or for lease may be erected or maintained. Such sign shall not exceed four (4) square feet in area, shall not have a single dimension in excess of 4:1 ratio, and no part thereof shall be erected or maintained more than five (5) feet above ground level. Such sign shall not be illuminated. Such sign shall not be located nearer than three (3) feet to the city's sidewalk or, if there be none, then not nearer than ten (10) feet to the paved portion of the road. Signs in compliance with above do not require prior Zoning Enforcement approval or a permit.
- c. Business Sign. Such sign requires Code Enforcement Officer approval. One (1) business sign per parcel may be erected or maintained, and no part thereof shall be erected or maintained more than six (6) feet above ground level. Such sign shall not be located nearer than three (3) feet to the city's sidewalk or, if there be none, then not nearer than ten (10) feet to the paved portion of the road.
 - (1) Home Occupations. A home occupation business sign shall be non-illuminated. If located in an R-1 One Family District, such sign shall not exceed three (3) square feet in area; if located in an R-2 Two Family District, such sign shall not exceed four (4) square feet in area and shall not have a single dimension in excess of a 6:1 ratio.
 - (2) Churches. A church sign or bulletin board, identifying the church and its denomination, its pastor, times and days of services, and/or upcoming events, may be erected and maintained on the parcel occupied by the church. Such sign may be illuminated. Such sign shall not exceed thirty-two (32) square feet in area and shall not have a single dimension in excess of eight (8) feet.

(3) Other Signs. Any other sign, other than for a home occupation or a church, may not be illuminated, shall not exceed six (6) square feet in area, shall not have a single dimension in excess of six (6) feet, and shall not be erected or maintained more than six (6) feet above ground level.

- d. Advertising Sign. No advertising sign shall be erected or maintained in a R-1 One Family District or R-2 Two Family District.
- e. Event Sign. An “event sign” is a temporary sign that advertises a special event. One (1) such sign may be erected or maintained on the parcel. The sign shall not be illuminated, shall not exceed nine (9) square feet in area, shall not have a single dimension in excess of nine (9) feet, and shall not be located nearer than three (3) feet to the city’s sidewalk, or if there be none, then not nearer than ten (10) feet to the paved portion of the road. No event sign shall be displayed more than fourteen (14) days prior to the event announced thereon, and no event sign shall be displayed more than five (5) days after the completion of the event announced thereon.
- f. Flashing and Neon signs. No flashing sign or neon sign shall be erected or maintained in a R-1 One Family District or R-2 Two Family District.
- g. Corner Lots. The owner or occupant of any parcel of land located at the intersection of two public streets shall be authorized to erect one (1) additional sign on said parcel, which sign shall otherwise comply with all other provisions of this paragraph.

4. Non-Residential Districts. In any district other than a R-1 One Family District or R-2 Two Family District, the following provisions shall apply.

- a. Prior Approval. No business or advertising sign shall hereafter be erected until the same has been reviewed, approved and awarded a permit by the Code Enforcement Officer. Any person proposing to erect any sign shall submit a scale drawing and/or plan of the proposed sign showing its wording, size and dimensions, materials, proposed location and, if proposed to be affixed to a building more than six (6) feet above ground level, a list of materials and other means by which the same is proposed to be secured to the building, and if the Code Enforcement Officer requires it, a certification to the City of Sherrill from a licensed engineer that the proposed sign and its proposed installation do not constitute a danger to the public health or safety. Upon submission of all materials herein required to the Code Enforcement Officer. The failure of the Code Enforcement Officer to act within thirty (30) days shall be deemed to constitute his approval of the proposed sign.

- b. Business Signs. Not more than two (2) business signs may be erected or maintained by a business, area not to exceed one (1) sq. ft. per linear foot of business building frontage in total. If multiple businesses occupy the business building, they must comply with the aforementioned restrictions in total. Such signs may be illuminated. No portion of any such sign shall be erected or maintained above the roof line of the main structure. Traffic control signs shall be approved as part of proposal, but will not count as part of sq. ft.
- c. Advertising Sign. One (1) advertising sign may be erected or maintained on a parcel. Such sign shall not exceed thirty-two (32) square feet in area, shall not have a single dimension in excess of eight (8) feet, and no portion thereof shall be above the roof line of the main structure. Such sign shall be located as if it were a business sign.
- d. Flashing Signs. No flashing sign shall be erected or maintained in a non-residential district.
- e. “For Sale” or “For Rent” Sign. Not more than one (1) temporary sign announcing the parcel on which the sign is located to be for sale or for rent may be erected or maintained. Said signs shall not be illuminated and shall not exceed thirty-two (32) square feet. No portion of any such sign shall be erected or maintained above the roof line of the main structure. No such sign shall be located nearer than three (3) feet to the City sidewalk or if there be none, then no nearer than ten (10) feet to the paved portion of the road. Signs in compliance with above do not require prior Zoning Enforcement approval or a permit.

5. Signs not permitted in any district. No signs of any kind shall be attached or affixed to any telephone or utility pole, or on any city owned property without the express consent of the City Manager.

6. Temporary signs. Temporary signs shall be allowed in all districts in addition to any other signs permitted by these Regulations, subject to the following additional restrictions and specifications. All temporary signs must be approved by the Code Enforcement Officer.

A “temporary sign” is a sign which is freestanding or otherwise not permanently attached to a building or to a post or other structure permanently erected on the premises and is not otherwise described and permitted in these Regulations..

Temporary signs shall require a permit; such permit shall expire Five (5) days after the event advertised has concluded or in any case shall expire 90 days after issuance thereof. Permits for such signs shall not be reissued within a given calendar year and in no event shall such permit authorize more than one sign.

In the event such temporary sign has not been removed upon expiration of the permit, the Code Enforcement Officer shall cause that sign to be removed, the cost of which is to be charged to the applicant by deducting the same from the deposit.

Dimensions. No such temporary sign shall be larger than thirty-two (32) square feet and shall not exceed twenty (20) feet above ground level in any business or industrial district or four (4) square feet in area and shall not exceed four (4) feet above ground level when placed in any R-1 One Family District or R-2 Two Family District.

Placement. A temporary sign shall not be attached to fences, trees or utility poles and shall not be placed in a position that obstructs or impairs vision of traffic or creates a hazard or nuisance.

7. Permits. A fee of \$10.00 shall be paid by the applicant upon the issuance of a permit for a temporary sign; and in addition thereto, the Code Enforcement Officer shall require a deposit of \$100.00, and it shall be refundable upon timely removal as hereinafter provided. For all other permanent signs requiring a permit the fee shall be \$25.00 and there shall be no deposit required.

8. Signs not affected. Nothing herein contained shall be deemed to prohibit the display of any sign endorsing any candidate for political office or indicating support of or opposition to any political proposition during the sixty (60) days immediately preceding the date on which such election is to be taken or vote is to be held and seven (7) days immediately thereafter. No such sign shall contain obscene or vulgar language so as to disturb the peace and character of the neighborhood. Nothing herein contained shall be deemed to prohibit the display of any holiday decoration, including flashing lights.

9. Enforcement. Any sign previously given City Commission approval shall be deemed in conformance with this section of the Zoning Regulations.

Any nonconforming sign existing on or after the effective date of this law shall be removed by the owner of the premises upon which such sign is located after written notice is provided thereof. The Code Enforcement Officer or City Manager upon determining that any such sign exists, shall notify the owner or beneficial user of such sign in writing, to remove the said sign within seven (7) days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the City Manager shall remove or cause removal of such sign, and shall assess all cost and expense incurred in the said removal against the property on which such sign is located.

The penalties and procedures prescribed in Article 10 of these Regulations shall apply to this law in addition to any other civil and criminal remedies available.

Section 24 – Prohibited Uses.

In all districts the following buildings and uses are prohibited:

1. Any use, similar to those enumerated below, which would be injurious to the safety or welfare of the neighborhood by reason of smoke, odor, vibration, dirt, glare, noise or danger of fire and explosion.

a. Manufacture or bulk storage of acetylene, ammonia, asphalt, fertilizer, fireworks, pressure tanks, explosives, gasoline, naphtha, or petroleum refining, except as specifically approved by the City Manager as meeting Underwriters specifications.

b. Poultry and swine farms.

2. No garage, accessory building, storage units or trailer shall be occupied or used for residence or dwelling purposes.

ARTICLE 8 – OFF-STREET PARKING AND LOADING

Section 25 – Off-Street Parking.

1. Off-street parking space shall be required as specified in Schedule A and as follows:

a. C-2 District: for new buildings constructed and existing buildings substantially altered after the effective date of these Regulations..

b. All other Districts: for new uses established, new buildings constructed, and existing buildings substantially altered, after the effective date of these Regulations.

2. For any building having more than one use, parking space shall be required as provided for each use.

3. For uses not specified below, the Zoning Board of Appeals shall, on appeal, and after consideration of a recommendation by the Planning Board, establish parking requirements in specific cases consistent with those specified in Schedule A.

4. Required parking spaces for residential uses shall be located in the side or rear yard on the same lot or tract as the principal use. This provision shall not apply to multi-story non-profit housing for the elderly. Parking spaces required for other uses may be located within 200 feet of the principal use, subject to the approval of the Zoning Board of Appeals.

5. One off-street parking space shall consist of at least 170 square feet. In addition, space necessary for aisles, maneuvering and a street or alley over an approved curb cut.

6. Floor areas for the purpose of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement and cellar areas used primarily for storage or service.

Schedule A – Off-Street Parking

| | <u>Use</u> | <u>Spaces Required</u> |
|-----|--|--|
| 1. | Dwellings and Apartment Houses | 1 space for each dwelling unit |
| 2. | motel, hotel | 1 space for each guest |
| 3. | Administrative, professional, Philanthropic governmental or utility office area | 1 space for each 200 sq. ft. of floor |
| 4. | Funeral home | 10 spaces, plus space for all employee and resident personnel cars |
| 5. | Church or temple | 1 space for each 10 seating spaces in main assembly room |
| 6. | School | 2 spaces for each classroom |
| 7. | Theatre or other place of assembly | 1 space for each 5 seating spaces |
| 8. | Nursing or convalescent home | 1 space for each 4 beds |
| 9. | Retail store or bank | 1 space for each 250 sq. ft. of floor area in excess of 1,000 sq. ft. |
| 10. | Clubs and restaurants serving food or beverages for consumption on the premises | 1 space for each 50 sq. ft. of floor area devoted to patron use |
| 11. | Bowling alley | 5 spaces for each alley |
| 12. | Wholesale, storage, freight terminal or utility use | 1 space for each 1,000 sq. ft. of gross floor area |
| 13. | Industrial or manufacturing uses | 1 space for each 2 employees on the maximum working shift |
| 14. | Home occupation | 1 space in addition to any required for the dwelling |

15. Non-profit housing for elderly

1 space for each two dwelling units

Section 26 – Off-Street Loading.

1. At least one off-street loading facility shall be provided for each commercial or manufacturing establishment hereafter erected or altered to have a gross floor area in excess of 5,000 square feet for commercial uses and 10,000 square feet for industrial uses, computed as described in Section 25-6. Space for off-street loading shall be in addition to space for off-street parking.

2. Each facility shall be subject to the following minimum requirements:

- a. Each berth shall be not less than 12 feet wide, 33 feet long, and 14 feet in height when covered.
- b. Space for such berth may occupy any part of any required side or rear yard, except no such berth shall be located closer than 50 feet to any lot in any R-District unless wholly within a completely enclosed building or unless screened from such R-District lot by a wall or uniformly painted solid fence not less than 6 feet in height.

ARTICLE 8-A
REGULATION OF SATELLITE RECEIVING ANTENNAS – DISH-TYPE, WIND
TURBINES, AND SOLAR PANELS

Section 27

Satellite Receiving Antennas.

For all zoned districts, there shall not be more than two satellite antenna/digital television/internet dishes per residential dwelling and the two units shall not exceed a maximum of five feet total combined diameter and shall be set back at least five feet from all property lines. If said satellite antenna/digital television/internet dish is located in the front yard of a residential dwelling, it is required to be attached to the said dwelling versus free standing.

Small Wind Energy Conversion Systems.

No wind energy conversion systems including, but not limited to, windmills and wind turbines shall be installed without application for a special use permit which shall take into account amongst other things, the fabric of the proposed neighborhood, the effects on the environment, noise and visual appearance.

Solar Panels.

No solar panels shall be constructed within the City of Sherrill without application for a special use permit.

ARTICLE 9 – NON-CONFORMING USES

Section 28 – Continuation.

Any non-conforming use, building or structure which existed lawfully at the time of enactment of these Regulations may be continued, subject to the regulations which follow in this Article.

Section 29 – Identification.

The Codes Enforcement Officer shall be responsible for identifying all non-conforming uses and keeping an inventory of same.

Section 30 – Non-Conforming Use of Land.

The non-conforming use of land that is in violation of current setback requirements shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of these Regulations.

If a current non-conforming use of land meets all current setback requirements, it may not need a variance to enlarge, modify, and/or repair structures, provided that all current setback and other regulations are adhered to with the enlargement, modification, and/or repair. A building permit is still required for any construction or changes, regardless of the variance status. Always consult the City's Code Enforcement Office for specific regulations and procedures.

A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of adoption of these Regulations.

A non-conforming use of land shall not be changed to another non-conforming use.

1. If a non-conforming use of land is discontinued for a period of twelve consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

Section 31 – Non-Conforming Use of Buildings.

1. Additions. A non-conforming building which is substantially designed or intended for a use not permitted in the district in which it is located, shall not be added to or enlarged in any manner. However, such building and the use thereof may be made to conform to all the regulations of the district in which it is located.

2. Alterations and Repairs. No structural alterations shall be made to any non-conforming building unless such alterations are required by law. However, any maintenance and repairs as are required to keep a non-conforming building or structure in sound condition shall be permitted.

3. Changes. A non-conforming use of a building may not be changed except to a conforming use. When so changed, the non-conforming use may not be resumed thereafter.

4. Discontinuance. A non-conforming use of a building or structure which is discontinued for a period of twelve consecutive months shall not be reestablished, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:

- a. Vacancy of a non-conforming use building for a period of twelve consecutive months.
- b. Manifestation of a clear intent on the part of the owner to abandon the non-conforming use.

5. Extension. A non-conforming use may be extended throughout any part of a building designed for such use if at the time of adoption of these Regulations a major portion of the building was used for such non-conforming use.

6. Removal. If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform with the current regulations of the district.

7. Validity of Permit. Any building for which a permit has been lawfully granted, and on which the construction has been started and diligently prosecuted before the effective date of these Regulations may be completed.

ARTICLE 10 – ADMINISTRATION

Section 32 – Enforcement Officer.

The provisions of these Regulations shall be administered and enforced by a person designated by the City Commission as the “Codes Enforcement Officer” and/or by the City Manager, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of these Regulations. No building permit or certificate of occupancy required hereunder shall be issued by the Codes Enforcement Officer and/or the City Manager except in compliance with the provisions of these Regulations, or as directed by the Zoning Board of Appeals under the provisions of Article 12.

Section 33 – Building Permit.

1. No building shall be erected, moved, structurally altered, added to or enlarged, and no excavation for any building shall be begun unless and until a building permit for such work has been issued by the Code Enforcement Officer and/or the City Manager.

2. An application for a building permit shall be submitted on a form to be provided by the Code Enforcement Officer and/or the City Manager. Each application shall set forth such information as the Code Enforcement Officer and/or the City Manager may require including, without limitation, the purpose(s) for which the building is intended to be used and shall be accompanied by the following:

- a. a survey map or plot plan showing the dimensions of the lot and building, and the dimensions of required and proposed yards;
- b. if the application involves a residential building of 1,000 or more square feet (exclusive of garages, open porches, cellars or uninhabitable basements or attics) or commercial or industrial buildings or any addition thereto, two complete sets of specifications and detailed construction plans, including a certification that the plans meet the requirements of the New York State Building and Energy Code, bearing the signature or authorized facsimile signature of an architect or engineer licensed by the State of New York;
- c. if the application involves a residential building of less than 1,000 square feet (exclusive of garages, open porches, cellars or uninhabitable basements or attics), a sketch made to scale showing dimension of the building, rooms (each room being identified as to its intended use), windows, doors, lumber sizes, spans and insulation; and
- d. such additional information as the Code Enforcement Officer and/or the City Manager may reasonably require to determine if the proposed building, its use and the use of the land are in conformity with the provisions of these Regulations and any and all other applicable law, ordinance, rules and regulations

3. The specification and detailed constructions plans required under subparagraph “b” of paragraph (2) hereof shall include a site plan and description of the nature of the work to be performed, the materials and equipment to be used and installed, and the details of the structural, mechanical, electrical and plumbing installation and a section through for fireplace footer to top of chimney and stairs.

4. Within ten (10) business days following his receipt of all information required hereunder in proper form and any follow-up information, if applicable, the Code Enforcement Officer and/or the City Manager shall approve or disapprove the application.

Section 34 – Certificate of Occupancy.

A certificate of occupancy is required for any of the following:

1. Occupancy and use of a building hereafter erected, altered, moved or extended
2. Change in the use of an existing building
3. Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use
4. Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use
5. A property where power or utilities have been discontinued for more than five consecutive days. Said Certificate of Occupancy shall only be re-issued if City is made whole for any and all owed utilities and costs.

A certificate of occupancy may be obtained, on application, from the Codes Enforcement Officer and/or City Manager. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of these Regulations. An inspection will be made of each building or lot for which a Certificate of Occupancy has been applied before issuing such certificate. Such inspection shall be made within five (5) business days from the date of application. Failure to make such inspection and determination within the specified period of time shall be deemed to be disapproval of the application for Certificate of Occupancy.

Section 35 – Violation and Penalty.

1. Any person, firm or corporation that violates or aids or assists in the violation of these Regulations or any part thereof shall be guilty of an offense.
2. Each day that such violation continues shall be deemed to be a separate offense.
3. Any person, firm or corporation convicted of an offense as provided in subsection (a) hereof shall be punished by a fine not to exceed One Hundred Dollars (\$100.00) per day, by a term of imprisonment not to exceed ten (10) days, or by both such fine and imprisonment.

ARTICLE 11 – PLANNING BOARD

Section 36 – Establishment.

Pursuant to Section 27 of the General City Law of the State of New York, there is established in and for the City of Sherrill a Planning Board consisting of seven (7) members.

Section 37 – Appointment.

The Mayor shall appoint members of the Planning Board for a term of seven (7) years. The Sherrill City Commission, through Resolution dated as of November 10, 2014, has opted out of the annual training requirements pursuant to Paragraph 7 of Section 27 of the New York State General City Law, but the Sherrill City Commission may mandate specific educational trainings, seminars, and disbursement of other relative information to the Planning Board, at their discretion.

Section 38 – Organization.

The Planning Board shall choose its own chairman and an acting chairman to serve in his absence. The Planning Board shall adopt rules of procedure governing the organization of the Board and the conduct of its meetings.

Section 39 – Meetings.

1. Meetings of the Planning Board shall be held as provided in rules of procedure adopted by the Board. The Planning Board shall keep minutes of its proceedings, showing the vote of each member on each question and shall keep records of its hearings and other official actions. If any member is absent or fails to vote, the minutes shall indicate such fact. Every motion or resolution of the Planning Board shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board.

2. All hearings of the Planning Board shall be open to the public and the minutes of Board meetings and hearings shall be a public record. Every decision or determination of the Board shall be filed with the Codes Enforcement Officer and/or City Manager and shall be a public record.

Section 40 – Jurisdiction.

The Planning Board shall have all the power and duties prescribed by law and these Regulations.

ARTICLE 12 – ZONING BOARD OF APPEALS

Section 41 – Establishment of Board of Zoning Board of Appeals.

Pursuant to Section 81 of the General City Law of the State of New York, there is established in and for the City of Sherrill a Zoning Board of Appeals consisting of five (5) members.

Section 42 – Appointment.

The Mayor shall appoint members of the Zoning Board of Appeals for a term of three years, to serve in staggered terms. The Sherrill City Commission, through Resolution dated as of November 10, 2014, has opted out of the annual training requirements pursuant to Paragraph 7 of Section 81 of the New York State General City Law, but the Sherrill City Commission may

mandate specific educational trainings, seminars, and disbursement of other relative information to the Zoning Board of Appeals, at their discretion.

Section 43 – Organization.

The Zoning Board of Appeals shall choose its own chairman and an acting chairman to serve in his absence. The Board shall adopt rules of procedure governing the organization of the Board and the conduct of its meetings.

Section 44 – Meetings.

1. Meetings of the Board shall be held as provided in rules of procedure adopted by the Board. The Board shall keep minutes of its proceedings, showing the vote of each member on each question and shall keep records of its hearings and other official actions. If any member is absent or fails to vote, the minutes shall indicate such fact. The concurring vote of three members of the Board shall be necessary to reverse any order or decision of the Codes Enforcement Officer and/or the City Manager, or to decide in favor of any applicant on any matter over which the Board has jurisdiction.

2. All hearings of the Board shall be open to the public and the minutes of Board meetings and hearings shall be a public record. Every rule or regulation, amendment or repeal thereof, order, requirement, decision or determination of the Board shall be filed immediately with the Codes Enforcement Officer and/or City Manager and shall be a public record.

Section 45 – Appeals to the Zoning Board of Appeals.

1. An appeal from a determination of the Codes Enforcement Officer and/or City Manager may be taken by any aggrieved person, or by an officer, department or board of the City of Sherrill. Such appeal shall be taken within 30 days of the date of the decision, by filing with the Codes Enforcement Officer and/or City Manager a notice of appeal specifying the grounds thereof.

2. All appeals shall be made in writing on forms provided by the Board. The Codes Enforcement Officer and/or the City Manager shall then transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

3. The Board shall give due notice to the parties at interest, and shall give its decision within 30 days from the date of the hearing.

Section 46 – Jurisdiction.

The Zoning Board of Appeals shall have the following powers and duties prescribed by statute and by these Regulations:

1. Interpretation: On appeal from a determination of the Codes Enforcement Officer and/or the City Manager to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or interpretation of any provision of these Regulations.

2. Variance: On appeal from a determination of the Codes Enforcement Officer and/or City Manager, to grant a variance pursuant to the following criteria:

- a. As used in this section: (a) "Use variance" shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. (b) "Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
- b. Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- c. Use variances. (a) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein. (b) No such use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located: (i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) the alleged hardship has not been self-created. (c) 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.

- d. Area variances. (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 such ordinance or local law, to grant area variances as defined herein. (b) 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: (i) 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; (ii) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance; (iii) whether the requested area variance is substantial; (iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (v) 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. (c) 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.
- e. Special use permit. The Zoning Board of Appeals may grant a special use permit where the use of land may not be appropriate in all circumstances in a zoning district, but may be appropriate where adequate precautions are taken to assure compatibility with surrounding uses. When determining whether to issue a special use permit, the Zoning Board of Appeals shall consider the following criteria:
- (i) The Zoning Board of Appeals must weigh the impacts on nearby properties in terms of traffic, noise, light, dust, odors and any other relevant impact.
 - (ii) The Zoning Board of Appeals must weigh whether the use is appropriate in the context of the neighborhood.
 - (iii) The Zoning Board of Appeals must weigh whether there is adequate parking and other infrastructure in place to support the use.
 - (iv) The Zoning Board of Appeals must ensure there is adequate provision of infrastructure for the removal of refuse and garbage.
 - (v) The Zoning Board of Appeals must weigh any impacts on the environment.

- f. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of special use permits, 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 the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 47 – Decisions of the Board.

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Codes Enforcement Officer and the City Manager. The Board shall also retain in its files a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of appropriate subsections of Section 46.2.e., where the appeal is for a variance or a special use permit.

ARTICLE 13 – AMENDMENTS

Section 48 – Declaration of Policy.

For the purpose of establishing and maintaining sound and stable development and to conserve property values generally, these Regulations shall not be amended except to correct a manifest error in these Regulations, or to provide for regulations more appropriate to an area because of changed or changing conditions.

Section 49 – Amendments, How Initiated.

The City Commission may from time to time on its own motion, may amend, supplement, repeal or change the regulations and district boundaries established by these Regulations.

Whenever the owner or owners of frontage in any district shall present a petition duly signed and acknowledged, to the City Commission, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the City Commission to vote upon said petition within 90 days after the filing of the same by the petitioners with the City Clerk.

The Planning Board and/or the Zoning Board of Appeals may, by resolution, propose an amendment, supplement, change or repeal of the regulations to the City Commission.

Before any amendment, supplement, repeal or change in the regulations or district boundaries, there shall be a public notice and hearing thereon by the City Commission, as provided by law.

In addition to the public notice of a hearing, notice shall be given in writing to all property owners of record of the land included in such proposed change, and the land immediately adjacent extending 100 feet therefrom, and the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the City.

Section 50 – Referral of Proposed Amendments to the Planning Board.

All proposed amendments originating by petition, or by motion of the City Commission, shall be referred to the Planning Board for a report and recommendations thereon. The Planning Board shall submit its report and recommendations within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be the Planning Board approval of the proposed amendment. The Planning Board may submit a request to the City Commission for a 30 day extension to submit its report and recommendation.

Section 51 – Hearing on Proposed Amendment.

Before any amendment, supplement, repeal or change in the regulations or district boundaries, there shall be a public notice and hearing thereon by the City Commission, as provided by law. In addition to the public notice of a hearing, any proposed amendment to zoning maps shall require written notice to all property owners of record subject to changes to their existing zoning map, and the land immediately adjacent extending 100 feet therefrom, and the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the City.

Section 52 – Adoption of Amendment.

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the City Commission shall be required to amend the zoning regulations except as described in Section 53, Protest Petitions.

Section 53 – Protest Petitions.

If a protest against a proposed amendment, supplement, repeal or change is presented to the City Commission, duly signed and acknowledged by the owners of twenty percent or more of the land included in such proposed change, or by the owners of twenty percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of twenty percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the three-fourth vote of the City Commission.

Section 54 – Periodic Review of Zoning Regulations.

From time to time, at intervals of not more than five years, the Planning Board shall re-examine the provisions of these Regulations and the location of district boundary lines and shall submit a

report to the City Commission recommending such changes or amendments, if any, which may be desirable in the interest of public welfare, convenience and necessity.

ARTICLE 14 – MISCELLANEOUS

Section 55 – Interpretation.

In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. When these Regulations impose a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or makes any other greater requirement than is imposed or required by any other ordinance, rule or regulation, or by easements, covenants, or agreements, the provisions of these Regulations shall govern.

Section 56 – Severability.

If any article, section, paragraph, subdivision, clause or provision of these rules, regulations, restrictions, prohibitions, or districts shall, by court of competent jurisdiction, be adjudged invalid, such adjudication shall apply only to such article, section, paragraph, district, subdivision, clause or provision so adjudicated.

Section 57 – Effective Date.

These Regulations shall be in effect upon its adoption by the city commission of the City of Sherrill and ten (10) days after publication and posting, as provided by law.

ARTICLE 15 – SITE PLAN REVIEW

Section 58 – Applicability.

1. Site Plan Review approval shall be required prior to the issuance of a permit to erect any structure except for single and two-family dwellings. The Planning Board shall be required to review Commercial, Industrial, Institutional and Multi-family Residential uses in all zoning districts. For the purposes of this Section, Multi-family Residential shall mean a building containing three or more attached dwelling units. The intent of this Site Plan Review ordinance is to allow for the Planning Board to have power of discretion in reviewing Commercial, Industrial, Institutional and Multi-family Residential Site Plans pertaining to project design and landscaping requirements.

2. Procedure for preliminary Site Plan Review and action. Within sixty-two (62) days of the receipt of a Preliminary Site Plan and all information necessary to constitute a fully complete application, the Planning Board shall inform the applicant, in writing, of its decision. An application shall be considered complete when the applicant has submitted all information necessary to make a determination of significance under the New York State Environmental Quality Review Act. If the Planning Board determines that the site plan does not meet the

standards of the code, the applicant may be required to submit additional materials in order for the application to be deemed complete.

Section 59 – Application for Preliminary Site Plan Approval.

1. An administrative fee of fifty dollars (\$50.00) shall accompany an application for preliminary Site Plan Review and approval. The applicant shall also escrow an amount to be determined by the Planning Board to pay the anticipated costs that the Planning Board expects to incur due related to retaining an engineer and/or attorney to review the application.

2. An application for preliminary site plan approval shall be made in writing and shall be accompanied by information drawn from the following checklist. Preliminary Site Plan Submission Requirements:

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- North arrow, scale and date;
- Boundaries of the property plotted to scale;
- Name and address of all adjoining property owners;
- Existing watercourses and drainage ways;
- Grading and drainage plan, showing existing and proposed contours;
- Location, proposed use and height of all buildings;
- Location, design and construction materials of all parking and truck loading areas, showing access and egress;
- Provision for pedestrian circulation access and handicapped access;
- Location of outdoor storage, and method of screening if any;
- Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, fences, and signs;
- Location, design and general construction materials of all existing or proposed buildings, structures and accessory structures including elevations of the building(s) illustrating all views fronting public streets, and/or three-dimensional renderings necessary to illustrate the size, shape and form of all sides of the building(s);
- Description of the method of sewage disposal and location, design and construction materials of such facilities;
- Description of the method of securing public water and location, design and construction materials of such facilities;
- Location of fire and other emergency zones, including the location of fire hydrants and fire lanes;

- Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- Location, size and design and construction materials of all proposed signs;
- Location and proposed development of all buffer areas, including existing vegetative cover;
- Location and design of outdoor lighting facilities and light emissions to 25 feet within adjoining property;
- Designation of the amount of building area proposed for retail sales or similar commercial activity;
- General landscaping plan and planting schedule;
- Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any state or county permits required for the project's execution;
- Agricultural Data Statement if located within 500.0 feet of an agricultural district (forms can be obtained at the Oneida County Planning Agency or from the City Clerk);
- Archeological survey as required by the New York State Historic Preservation Office (SHPO) if any, and
- Completed Environmental Assessment Form (EAF) in compliance with the New York State Environmental Quality Review Act (SEQRA).

Section 60 – Review Criteria.

The following criteria for the Planning Board review may include, but shall not be limited to the following:

1. Adequacy and arrangement of vehicular traffic egress/ingress and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy, arrangement of pedestrian, ADA compliant traffic access, and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design, architectural style and general site compatibility of buildings, lighting and signs.
5. Relationship of proposed architectural styles and materials within the context of the community, surrounding neighborhood or compatibility with adjacent environs.
6. Adequacy and maintenance of stormwater and drainage facilities.

7. Adequacy of water supply for drinking and fire protection purposes and sewage disposal facilities.

8. 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.

9. In the case of an apartment complex or other multiple dwelling, the adequacies of usable open space for play areas and informal recreation.

10. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

11. Adequacy of fire lanes, other emergency zones, and the provision of fire hydrants.

12. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

13. Relationship to active agricultural land and fallow land to ensure that the conversion of agricultural land to non-agricultural uses is minimized and to ensure that all potential conflicts with agricultural operations are minimized.

Section 61 – Public Hearing.

The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within sixty-two (62) days of the receipt of the **complete** application for preliminary site plan approval and shall be advertised in a newspaper for general circulation in the City at least five (5) days before the public hearing.

Section 62 – Planning Board Action on Preliminary Site Plan.

The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQRA). First, the Planning Board should identify the type of action the proposed development is according to the SEQRA. Depending on the size, location, and other factors, it may be a Type I or an Unlisted action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application and consider compliance with current planning activities and plans. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQRA regulations.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. The application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed and submitted to the Planning Board. When the draft environmental impact statement is completed, the period for Planning Board review begins (62 days). If another

agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is approved, disapproved or approved with modifications. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement 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.

Section 63 – Procedure for Final Site Plan Review and Action.

1. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six (6) months has elapsed since the time of the Planning Board's action on the preliminary site plan and, if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review.

2. Required Referral. Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Planning Department, where necessary, for advisory review and a report in accordance with Section 239 of the General Municipal Law.

3. Within sixty-two (62) days of receipt of a complete application for final site plan approval, the Planning Board shall render a decision. The Planning Board may impose conditions on final site plan approval.

ARTICLE 16 – SHORT-TERM RENTAL UNITS

Section 64 – Applicability.

This section applies to the use of any property as a short-term rental. A "short-term rental" means the rental by a tenant of a dwelling unit, or portion thereof, for a period of less than 30 consecutive days. "Period" includes consecutive terms of rental to the same tenant(s).

Section 65 – Special-Use Permit Required.

1. A short-term rental is allowed by Special Use Permit in any district that allows a dwelling unit. Prior to using a dwelling unit as a short-term rental, a property owner must obtain

a Special Use Permit from the Zoning Board of Appeals pursuant to Article 12, Section 46.2.e. of this Code.

2. The Special Use Permit must specify the maximum number of guests permitted to occupy the dwelling unit at one time. Over-occupancy of a dwelling unit shall be grounds for revocation of the Special Use Permit.

3. The Special Use Permit must specify the number of off-street parking spaces required to be maintained and shall include a drawing of the location of the parking spaces on the property. The Zoning Board of Appeals must require sufficient off-street parking spaces to accommodate the maximum number of guests specified in the Special Use Permit. Failure to comply with the parking requirements shall be grounds for revocation of the Special Use Permit.

Section 66 – Violations.

1. The Special Use Permit must provide the contact information for the owner or his or her agent in the event a City Representative must immediately address a violation of this Code. Failure of an owner or his or her agent to timely respond or take remedial action shall be grounds for suspension or revocation of the Special Use Permit.

Section 67 – Suspension and revocation of Special Use Permit.

1. A Special Use Permit may be suspended or revoked for failure to comply with the terms of this Code.

2. To initiate the process to suspend or revoke the Special Use Permit, the Code Enforcement Officer shall issue a notice of intent to suspend or revoke the Special Use Permit to the property owner. The notice of intent to suspend or revoke shall describe the violation(s) and require the owner to correct the violation or cause the violation to be corrected within a specified time period.

3. The notice of intent shall be provided to the owner by personal service, by registered or certified mail to the address submitted with the permit application, or by posting on the premises at issue.

4. If the permit holder fails to correct the violation or cause the violation to be corrected within the specified period provided in the notice to suspend or revoke, the Code Enforcement Officer shall suspend or revoke the permit by providing written notice to the property owner.

5. A permit holder shall be entitled to request a hearing on suspension or revocation before the Zoning Board of Appeals, upon application made to the City Clerk. Any suspension or revocation remains in effect unless modified by the Zoning Board of Appeals. Within 90 days of the permit holder's written request, the Zoning Board of Appeals shall hold a hearing to determine whether to reverse the suspension or revocation. The Zoning Board of Appeals shall issue its written decision within 30 days after the hearing.

The owner of a dwelling unit for which a short-term rental Special Use Permit has been revoked may not reapply for a new permit until one year after such revocation.

ARTICLE 17 – PUBLIC NUISANCE ABATEMENT

Section 68 – Purpose.

It is the policy of the City of Sherrill to provide for the proper use of real property to prevent illegal, unhealthful, hazardous or dangerous conditions.

Section 69 – Prohibited Activities.

In accordance with the City’s Public Nuisance Abatement Ordinance No. 34 of 2024, no owner, operator, manager, agent in control, tenant, lessee or other occupier of a building, structure or real property shall knowingly conduct, maintain, permit or allow the existence of a public nuisance at the building structure or real property. Public Nuisance activities include, but are not limited to:

1. Any building, structure or real property used for the purpose of illegal use, possession or distribution of a controlled substance or cannabis as defined by the New York State Penal Law.
2. Any building, structure or real property used for the purposes of prostitution as defined by the New York State Penal Law.
3. Any building, structure or real property used for purposes of indecency, obscene performances and/or promotion of obscene material as defined by the New York State Penal Law and the City’s Public Nuisance Abatement Ordinance No. 34 of 2024.
4. Any building, structure or real property used for purposes of illegal gambling activity as defined in the New York State Penal Law.
5. Any building, structure or real property used for the purpose of the commission of illegal possession, use or sale of firearms or weapons as defined by the New York State Penal Law.
6. Any building, structure or real property used for the purpose of illegal sale, manufacture or consumption of alcohol beverages as defined by the New York State Alcohol Beverage Control Law.
7. Any building, structure or real property wherein there exists or has occurred a criminal nuisance as defined by the New York State Penal Law.

8. Any building, structure or real property used for purposes of loitering as defined by the New York State Penal Law.

9. Any building, structure or real property where there exists or has occurred a violation of these Zoning Regulations, the City’s Public Nuisance Abatement Ordinance No. 34 of 2024, and/or the New York State Uniform Fire Prevention and Building Code, including the Property Maintenance Code of New York State, and any subsequent amendments or superseding provision thereto, all of which have been previously adopted and incorporated into this Code.

10. Any building, structure or real property wherein an occupant, guest or business invitee commits criminal activities including but not limited to assault, harassment or disorderly conduct, as said criminal activities are defined by the New York State Penal Law.

The above activities classifying as a public nuisance are not intended and shall not be interpreted to cover or include request for police, medical, fire or ambulance services in the face of a threat or a perceived threat to person or property, or any request for the assistance of the police to enforce a court order, including but not limited to circumstances in which the request for police, medical, fire or ambulance services or public service intervention arises from an incident relating to intimate partner violence, sexual assault, child abuse or stalking against a person at or near the premises.

Section 70 – Enforcement.

All policies and procedures for enforcement of forbidden public nuisance activities shall be conducted pursuant to the City’s Public Nuisance Abatement Ordinance No. 34 of 2024.

ARTICLE 18 – DEFINITIONS

Section 71 – For the purposes of these Regulations certain words and terms used herein are defined as follows:

Words used in the present tense include the future tense; words in the singular number include the plural, and the plural the singular. The word “lot” includes the words “plot” and “parcel”. The word “building” includes the word “structure”. The word “used” shall be deemed also to include “designed, intended or arranged to be used”. The word “shall” is mandatory and not discretionary

ACCESSORY STRUCTURE: A roofed structure, requiring a building permit, attached or detached from a principal building, eighteen (18) feet or less in height, located on the same lot and customarily incidental and subordinate to the principal building or use. Accessory structure(s) includes use as gyms, bars, pool houses, animal containment structures, and detached decks with overhead covering, etc.

ADDITION: An expansion of the exterior perimeter of a building.

ADULT: Any person aged 18 years or older.

ADULT BOOK and/or VIDEO STORE: An establishment which offers for sale or rental books, magazines, photographs, films, videos, or other visual representations, and other materials oriented toward representation of sexual activity of any kind. This term does not include occasional sales of books, magazines, videos and other materials that may meet this definition or a store that does not have as its primary purpose the sale of these items but which may offer items meeting this description as a small fraction of the items it sells or rents.

ADULT ENTERTAINMENT ESTABLISHMENT: Any premise which provides adult sexually-oriented entertainment whether live or by motion pictures, videos, photographic reproductions or other means.

ADULT NOVELTY STORY: A commercial establishment offering for sale visual materials, printed matter, instruments, devices, and other paraphernalia designed and intended for use in connection with sexual activities.

ALLEY: A public way not a street, in the rear of or along the side of a lot which fronts on a public street.

APARTMENT: A room or suite of two (2) or more rooms designed or used solely as a residence in a building not used as a hotel, rooming or boarding house or for other transient occupancy.

APARTMENT HOUSE: A building divided into five (5) or more apartments designed or used for residential purposes. An apartment house may also contain commercial uses so long as the commercial use is limited to the ground floor of the building.

AREA VARIANCE: Authorization for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable requirements of this code.

ATTACHED: Any structure that contains wall-to-wall and/or roof connection with the primary structure, such as breezeways.

BASEMENT: A story partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground.

BED AND BREAKFAST: A house or portion thereof where transient lodging rooms and breakfast are provided, the premises being owner-occupied.

BUILDING: A structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattels. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

BUILDING, AREA: The total ground area of each building and all accessory buildings, exclusive of uncovered porches, steps, and terraces.

BUILDING COVERAGE: That percentage of the lot area covered by the building area.

BUILDING, HEIGHT OF: The vertical distance measured from the established grade at the curb, or if no grade has been officially established at the curb, measured from the average level of the finished ground surface 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 gable, hip and gambrel roofs.

CAR WASH: An area of land and/or building with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

CELLAR: An area wholly or partly below grade and having less than half of its clear floor-to-ceiling height above the average grade of the adjoining ground.

CONVENIENCE STORE: Any retail establishment offering for sale of prepackaged food products, household items, newspapers and magazines, and sandwich and other freshly prepared foods, for off-site consumption. Convenience stores may include the sale of gasoline, in which case they shall conform to the requirements of Automotive Fuel Service Stations.

CONVERSION: Modifications wholly within an existing structure. Work including ordinary repair or replacement of non-bearing walls, fixtures, wiring or plumbing, may be performed provided that the cubic content of the building as it existed at the time of adoption of these regulations shall not be increased. See Structural Alteration.

DEVELOPMENT AND RESEARCH CENTER: Centers created for a use engaged in medical or scientific research, testing or experimentation, not the manufacture or sale of products except as incidental to the primary use.

DWELLING, ATTACHED: A building with common walls that separate individual dwelling units, such as rowhouses, townhouses, and/or lodging houses.

DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling units include, but are not limited to, one-family dwelling, each unit in a two-family dwelling and multiple family dwelling, attached dwelling or apartment house.

DWELLING, ONE-FAMILY: A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY: A detached building containing two dwelling units only.

DWELLING, MULTI-FAMILY: A detached building, or portion thereof, containing three or four dwelling units.

ESCORT AGENCY: A company that provides social escorts for paying clients.

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit.

FARM: A parcel or tract of land having an area of at least five (5) acres which is used for the production or raising agricultural or dairy products.

GARAGE, PRIVATE: A roofed or enclosed space designed or used primarily for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

GARAGE, PUBLIC: A commercial and/or business building or part thereof used for the storage, renting selling, servicing, and repair of motor vehicles, operated for gain.

GARAGE, STORAGE: A commercial and/or business building or part thereof, used only for the storage of vehicles and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, serviced, repaired, rented or sold.

AUTOMOTIVE FUEL SERVICE STATION: Any area of land, including structures thereon, that is used or designed for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for servicing motor vehicles, but not including the painting or body repair thereof by any means.

HOME OCCUPATION: A "home occupation" is a business, profession, occupation or trade conducted for gain or support entirely within a residential building or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. Common examples of home occupations include but are not limited to offices for accountants and lawyers, shop for beauticians and barbers and studios of an artist or photographer.

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injuries. The term shall be deemed to include sanitarium and medical clinic/urgent care.

HOTEL or MOTEL: A building for renting sleeping rooms which may include dining rooms, kitchens, and other facilities for use by temporary guests, excluding bed and breakfast establishments.

JUNK YARD: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of the parts thereof.

LIGHT MANUFACTURING & ASSEMBLY PLANTS: Establishments engaged in the transformation of materials into new products in a process general considered to be free of potentially dangerous, offensive or hazardous methods and materials.

LOT: A parcel of land occupied or capable of being occupied by one building and accessory buildings or uses, or by a group of buildings united by a common use or interest;

LOT, AREA: The total horizontal area included within lot lines, except that no part of the area within a public right-of-way may be included in the computation of lot area.

LOT, CORNER: A lot abutting upon two or more streets at their intersection and having an interior angle at the corner of intersection of less than one hundred and thirty five (135) degrees. If the angle of intersection is more than one hundred thirty-five degrees, the lot is an “interior lot.”

LOT, COVERAGE: The cumulative square footage of all structures on a lot.

LOT, INTERIOR: A lot bounded by a street on one side only at an angle greater than one hundred thirty-five degrees.

LOT LINE: The established division line between different parcels of property.

LOT, THROUGH: An interior lot bounded by a street on front and back.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

MUNICIPAL USE: Any use directly related to governing the City and/or the internal affairs of the City in a building owned by the City.

NON-CONFORMING USE: A building, structure or lot occupied by a use at the time of enactment of these Regulations or any amendment which fails by reason for such adoption, revision, or amendment to conform with the present regulations of the district in which it is located.

NURSERY: A facility for the growing, display or sale of plant, stock, seeds or other horticultural items.

NURSING OR CONVALESCENT HOME: Any building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnish

PARKING SPACE: An off-street space available for the parking of one motor vehicle and having an area of not less than one hundred seventy (170) square feet, exclusive of passage-ways and driveways thereto, and having direct access to a street or alley. Parking spaces for disabled

people shall be at least eight (8) feet wide and shall have an adjacent aisle at least eight (8) feet wide.

PERIOD: The term “period”, when referring to rental or certain residential or commercial property, shall be defined as consecutive terms of rental to the same tenant(s).

ROOMING HOUSE: Any room or group of rooms for rent, lease, sale, license, or other type of agreement, forming a single habitable unit or intended to be used for living and sleeping. Single habitable units shall not contain cooking or kitchen facilities and shall not be used for cooking and eating purposes.

SETBACK: The minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines on the building. When two (2) or more lots under single ownership are used, the exterior property lines so grouped shall be used in determining offsets.

SHORT-TERM RENTAL: Rental by a tenant of a dwelling unit, or portion thereof, for a period of less than 30 consecutive days.

SIGN: Any device affixed to or 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.

SIGN, ADVERTISING: An “advertising sign” is a sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

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

SIGN, FLASHING: A “flashing sign” is 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 these Regulations any revolving, illuminated sign shall be considered a “flashing sign”.

SPECIAL USE: a certain use of land or buildings that may not be appropriate under all circumstances in any zoning district, but may be appropriate where adequate precautions can be taken to assure compatibility with surrounding uses. Special uses are restricted and approved by the Zoning Board of Appeals.

SPECIAL USE PERMIT: the documentary evidence of authority granted by the Zoning Board of Appeals when a certain use of land or buildings may not be appropriate under all circumstances in any zoning district, but may be appropriate where adequate precautions can be taken and conditions imposed to assure the compatibility with surrounding uses.

STABLE, PRIVATE: An accessory building in which one or more horses or ponies are kept for private use and not for hire, remuneration or sale.

STORY: That portion of a building included between the surface of any floor and the surface of the floor directly above it, or if there be no floor above it, then the space between any floor and the ceiling directly above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, said part having a ceiling height of 7 feet or more for an area not exceeding one-half the floor area of said full story, and in which space not more than two-thirds of the floor area is finished off as rooms.

STREET: A public or private thoroughfare which affords the principal means of access to abutting property.

STRUCTURE: Includes anything constructed or erected, the use of which demands a temporary or permanent location on the ground, or attached to something having a temporary or permanent location on the ground.

STRUCTURAL ALTERATION: As applied to a building or structure, any change or rearrangement in the structural parts or in the exit facilities or any enlargement, either by extending a side or by increasing in height, or the moving from one location or position to another. See Conversion.

TEMPORARY STRUCTURE: A tent or shelter erected on a temporary basis. Temporary structures shall include, but not be limited to, temporary structures constructed out of canvas, cloth, plastic, or other non-permanent material for the purpose of storage of vehicle(s), all-terrain vehicle(s) (ATV), small engine machinery, parts or accessories, equipment, tools, materials, etc. Temporary structures may not remain in place for more than six months during any twelve month period. All such structures must be properly anchored and comply with New York State building code.

THROUGH LOTS: Lots other than corner lots with frontage on more than one street.

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. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

USE, PERMITTED: A specific principal use of a building, structure, lot or land, or part thereof which the code provides for a particular district.

USE VARIANCE: Permission for the use of land or buildings for a use which is not otherwise permitted by the zoning regulations.

VARIANCE: A modification of the regulation of this code, granted on grounds as set forth in applicable regulations of this code.

YARD: An open space on the same lot with a building.

YARD, FRONT: An open, unoccupied space on the same lot with the building, between the front line of the building and the street or highway line, and extending the full width of the lot.

YARD, REAR: An open, unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of the building and the rear lot line and extending the full width of the lot.

YARD, SIDE: An open, unoccupied space on the same lot with the building, situated between the building and the side lot line, and extending from the front yard to the rear yard.

Zoning Regulations

City of Sherrill

New York

(Revised October 14, 2024)