

TOWN OF SALEM

Site Plan Review Law

ADOPTED OCTOBER 13, 1999 (Last Amended June 13, 2007)

ARTICLE I

INTRODUCTORY PROVISIONS

SECTION 1.010 ENACTMENT.

The Town Board of the Town of Salem, Washington County, does hereby enact the Town of Salem Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of the Town Law.

1.020 SHORT TITLE

This local law shall be known as the "Town of Salem Site Plan Review Law." The Town of Salem is hereinafter referred to as the "town".

1.030 INTENT AND PURPOSE

Through site plan review, it is the intent of this local law to promote the health, safety, and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure the optimum overall conservation, protection, preservation, development, and use of the natural and man-related resources of the town, by regulating land use activity within the town through review and approval of site plans, all in accordance with the recommendations of the Comprehensive Plan for the Town of Salem adopted by the Salem Town Board on March 12, 1997.

It is not the intent of this local law to prohibit per se any land use otherwise currently permitted in the town but to allow all land use activities which will meet the standards set forth in this local law.

1.040 AUTHORIZATION OF PLANNING BOARD TO REVIEW SITE PLANS.

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

ARTICLE II

APPLICABILITY AND DEFINITIONS

SECTION 2.010 APPLICABILITY OF REVIEW REQUIREMENTS

All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:

1. Any structure 120 square feet or less intended for storage only.
2. Minor Landscaping or grading which is not intended to be used in connection with a land use review under the provisions of this local law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%.
5. Tree Harvesting
6. Signs under 20 square feet.
7. Temporary structures related to the sale of agricultural produce.
8. Swimming pools,
9. Garages up to two (2) bays for residential use only. The first floor of any such garage shall not exceed seven hundred (700) square feet; the second floor of any such garage shall not exceed three hundred (300) square feet; and the second floor is to be used for storage only. No such garage shall be over two stories in height or Fifteen feet, two inches (15' 2"), whichever is less.

All other land use activities within the town of Salem, including mining operations, are subject to this local law.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board Chair for a written jurisdictional determination. In the event the Chair determines he or she cannot make the determination the applicant shall file an application for site plan review with the Planning Board.

2.020 EFFECT ON EXISTING USES

This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

2.030 RELATIONSHIP OF THIS LAW TO OTHER LAWS AND REGULATIONS.

This local law in no way affects any provisions or requirements of any other federal, state, or local law or ordinance or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply. .

2.040 DEFINITIONS

“Applicant” means the owner of record of the real property which is the subject of the application, or the owner’s designated agent, such designation to be in writing and to be filed with the application.

“Aquifer”, means a formation, or group of formations, or part of a formation that contain sufficient saturated permeable material to yield adequate quantities of ground water to wells.

“Aquifer Area”, means an area of the town as defined by a map of the Salem Aquifer Area, adopted by the town board and available at the town offices.

“Aquifer Tributary Area: means an area outside the Aquifer Area that supplies or recharges the aquifer with surface water in the form of overland flow, such as streams, wetlands, or unchannalized runoff.

"Land use activity," means any construction or other activity, which changes the use or appearance of the land or a structure, or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

"Shoreline" means the mean highwater mark of any lake, pond, river, or permanent stream.

"Structure" means any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

"Structure, accessory," means any structure designed to accommodate an accessory use but detached from the principal structure, such as a free standing garage for vehicles accessory to the principal use, a storage shed, a garden house or similar facility.

Any term used in this local law which is not defined herein above shall carry its customary meaning unless the context otherwise dictates.

ARTICLE III

SITE PLAN REVIEW

SECTION 3.010 PROCEDURES-GENERALLY

Prior to undertaking any new land use activity other than uses specifically excepted in section 2.010 of this local law, a site plan approved by the Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

3.020 SKETCH PLAN

The initial step in any application shall be for the applicant to request a sketch plan conference, such request to be made in writing by the applicant at least fourteen (14) days prior to a regularly scheduled meeting of the Planning Board. The sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation and submission of a formal site plan, and for the Planning Board to review the basic design concept, advise the applicant as to potential

problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch showing the location and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations; and

2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel including surface and groundwater related natural features and the location of the site in relation to aquifer and aquifer tributary areas, and downslope surface water bodies.

3. All items which the Planning Board deems necessary to be submitted by the applicant from the Site Plan Checklist contained in 3.030 from the checklist set forth in 3.030 shall be submitted in writing to the applicant within 10 days of the sketch plan conference.

3.030 APPLICATION REQUIREMENTS

An application for site plan approval shall be made in writing to the chairman of the Planning Board fourteen (14) days prior to the Planning Board's monthly meeting and shall be accompanied by such of the information contained on the following checklist as required by the Planning Board based upon the sketch plan conference.

SITE PLAN CHECKLIST:

1. Title of drawing, including name and address of applicant including tax map number and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Boundaries of the property, plotted to scale;
4. Existing buildings;
5. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
7. Location, design and type of all construction of all parking and truck loading areas, showing access and egress proof of driveway permit by town, county or state;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
12. Description of the method of obtaining water supply, and location, design and construction materials of such facilities,
13. Location of fire and other emergency zones, including the location of fire hydrants,
14. Location, design and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;

15. Location, size and design and type of construction of all proposed signs;
16. Location and proposed development of all buffer areas, including existing vegetative cover;
17. Location and design of outdoor lighting;
18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
19. General landscaping plan and planting schedule;
20. An estimated project construction schedule;
21. Record of application for and status of all necessary permits from other government bodies,
22. Identification of any permits from other governmental bodies required for the project's execution;
23. Existing natural groundwater-related and surface water features, such as contours, rock outcrops, soil characteristics, water courses, waterbodies, wetlands, wooded areas, flood hazard areas, the aquifer, and aquifer tributary areas. Features to be retained in the proposed development should be indicated.
24. Location and design of all existing on site or nearby ground water related improvements including drains, culverts, water lines, sewers, septic systems, and wells.
25. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

3.040 REQUIRED FEE

An application for site plan review shall be accompanied by a fee to be set by the Town Board.

3.050 REIMBURSABLE COSTS

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The applicant will be provided with an estimate of such costs within 10 days of the Sketch Plan Conference, which cost estimate shall be payable within 10 days of receipt of such cost estimate.

ARTICLE IV

REVIEW STANDARDS

SECTION 4.010 GENERAL STANDARDS AND CONSIDERATIONS

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Compatibility of the proposed activity with the Comprehensive Plan for the Town of Salem adopted on March 12, 1997, and subsequent amendments, if any.
2. Cell towers standards as promulgated by the Town.
3. Location, arrangement, size, design and general site compatibility of buildings, exterior lighting and signs.
4. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. The Planning Board may require a detailed traffic study for developments of 10 houses or more to include:
 - a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak traffic levels.

- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site, and
- c. The impact of this traffic upon existing public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
- 5. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- 6. Adequacy and arrangement of pedestrian traffic access and circulation, walkways structures control of intersections with vehicular traffic and overall pedestrian convenience.
- 7. Adequacy of storm water and drainage facilities; facilities shall be designed to protect ground and surface water resources, maintain existing conditions as nearly as possible, and to limit the rate and amount of drainage to neighboring parcels.
- 8. Adequacy of water supply and sewage disposal facilities; facilities shall be designed to protect ground water and surface water resources; sewage treatment facilities located in aquifer areas or aquifer tributary areas shall be constructed to maintain a distance of at least 200 feet between the closest part of the treatment system and wells or surface water features such as ponds or streams; wells constructed in aquifer areas are required to be 4-hour tested and logged, with the result reported to the town offices for record purposes.
- 9. Adequacy, type and arrangement of natural or man-made screening including 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.
- 10. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants, or equivalent.
- 11. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to pending, flooding and/or erosion; erosion and sediment control methods shall be such that the off-site impacts of erosion and sediment must not be greater during and following land disturbance activities than under preexisting conditions.
- 12. In the event mining activities are contemplated, reclamation plans and procedures shall be required. Such reclamation plans shall meet or exceed the minimum standards as adopted from time to time by the town board.
- 13. Procedures and facilities and the handling, storing and disposing of hazardous and toxic materials on the site shall be adequate to protect surface and ground water resources.
- 14. Overall impact on the neighborhood including compatibility of design considerations
- 15. Compliance with any and all other local ordinances and/or laws of the Town of Salem, the County of Washington or laws, rules or regulations of the State of New York.

4.020. SPECIFIC STANDARDS AND CONSIDERATIONS.

The following specific standards shall apply in conjunction with the subject uses or in designated areas:

4.021. SHORELINE STANDARDS AND CONSIDERATIONS.

- 1. All new construction or any expansion of an existing structure by more than 25% on any shoreline lot shall be carried out in such a manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.

2. No on-site sewage tile field or seepage pit shall be located within two hundred (200) feet of any shoreline and no septic or other holding tank shall be located within one hundred (100) feet of any shoreline, each distance as measured from the normal high water mark of the waterbody.

3. Any marina, boat service facility or any storage of petroleum products within one hundred (100) feet or reasonable setback as determined necessary by the Planning Board, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dyke may be required.

4.022. HISTORICAL STANDARDS AND CONSIDERATIONS.

1. Recognizing the great importance that historic preservation has to the town, and pending the adoption by the town of an historic preservation ordinance, any question raised in this area by an application for site plan review will be submitted to the Advisory Committee on Historic Preservation, the establishment of which is recommended in the preliminary report of Committee B on Historic Zoning submitted to the Town Board on December 10, 1997. The Advisory Committee will be asked to make a recommendation to the Planning Board prior to any public hearing on the application or the meeting scheduled for the final approval of the site plan application.

4.023 SETBACKS

All setbacks are to comply with the County, Uniform Fire and Building code.

4.024 DRIVEWAYS

The Town Highway Superintendent shall review and approve the location and placement of any new driveway that enters upon a town road

4.025 TELECOMMUNICATION TOWERS

The placement of any telecommunication towers in the town shall be governed by the regulations attached as Appendix A hereto.

ARTICLE V

PUBLIC HEARING AND PLANNING BOARD DECISION

SECTION 5.010. PUBLIC HEARING.

The Planning Board may conduct one or more public hearings on the site plan if considered necessary by a majority of its members. The first of such a hearings shall be held within 62 days of the receipt of application for site plan review and shall be advertised in the town's official newspaper, or if there is none, in a newspaper of general circulation in the town, at least ten (10) days before the public hearing. All subsequent hearings, if necessary shall be similarly noticed.

5.020 PLANNING BOARD DECISION

Within 62 days of receipt of the application for site plan approval or if any public hearings are held, within 62 days of the last of such public hearings, the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modification, or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

1. Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

2. Approval with modifications. The Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it; and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

3. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

4. Extension. Any approval shall be valid for a period of one (1) year from the date issued by the Planning Board. The applicant may apply for a one year extension upon written application to the Planning Board filed at least 30 days prior to the expiration of the initial approval period.

5. Appeal. In the event of a disapproval, the applicant may first appeal the decision of the Planning Board to the Town Board in lieu of, or prior to, commencing a judicial proceeding. Such request for appeal shall be filed in writing within thirty (30) days of the date of the decision of the Planning Board disapproving the application. The Town Board, upon receipt of such a request shall schedule a special Town Board Meeting within thirty (30) days of receipt of such request. At that special Town Board meeting both the parties, the applicant and the Planning Board, shall have the right to present their case including relevant documentation, witnesses and the testimony of experts. Any party shall have the right to be represented by counsel.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.010 COMPLIANCE OFFICER

The town board shall appoint an compliance officer to carry out the duties assigned by this local law or by additional regulations adopted pursuant to section 6.020 hereof. The compliance officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. The written approval of the Planning Board shall be conveyed to the Town supervisor with copy to the Compliance Officer, without which no building permit shall be approved by the Town.

6.020 FURTHER REGULATIONS BY THE PLANNING BOARD

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

6.030 AMENDMENTS

1. The town board may on its own motion, on petition, or on recommendation of the Planning Board, after public hearing, amend this local law pursuant to all applicable requirements of law.

2. All proposed amendments originating by petition, or by motion of the town board, shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

6.040 INTEGRATION OF PROCEDURES

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

6.050 ENFORCEMENT

1. Fines. Any person, corporation, partnership, association, or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than \$350.00 for a first offense, \$700.00 for a second offense and \$1,000.00 for a third offense and/or subject to term of imprisonment not to exceed one year. Any such fines shall be recovered by the town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect- or refusal shall continue.

2. Injunctive relief. The Town shall have the right to seek, in addition to or in lieu of any penalties or fines, injunctive relief from the appropriate court to prevent any violation of this local law or to require the removal of any building or structure or other physical matter placed within the town in violation of this local law or to require the restoration of any parcel of land modified in violation of this local law.

6.060 SUPERSESSION

The Town Board has specifically determined that it is in the best interest of the Town to supersede certain provisions of the Town Law of the State of New York, including, without limitation, the provisions of Section 282 relative to appeals and Section 268 relative to penalties. This determination is made pursuant to the authority granted to the Town by Subsection 10.1.(ii)d.(3) of Article 2 of the Municipal Home Rule Law of the State of New York.

6.070 SEVERABILITY

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

6.080 EFFECTIVE DATE This local law shall be effective as of the date of filing with the New York Secretary of State.