

TOWN OF HARTWICK
Town Planning Board
PO Box 275, Hartwick NY 13348
Telephone: 607/293/8153 Fax: 607/293-7914
hartwickpb@hotmail.com

Dear Applicant,

Thank you for your interest in developing within the Town of Hartwick. Enclosed, you will find the following:

- Application
- Site Plan Review Law
- Environmental Assessment forms
- Check list of supplemental information
- Sign Application and Sign Ordinance
- Reimbursement Contract

Please be advised that for your application to be considered **complete**, all items located within the packet must be completed and submitted in full. It is also necessary to have all pertinent letters from appropriate agencies (DOT, DEC, DOH, ACOE) with the application in order for the application to be considered.

Please read the sign application and sign ordinance and familiarize yourself with them for use at the appropriate time.

We need nine (9) copies of this application, maps and supplemental information. The fee for site plan review is \$50.00 and for each sign application is \$25.00. All copies and fees should be submitted to the Planning Board Intake Clerk's office **ten business days prior** to the next Planning Board meeting, unless individual arrangements are made with the clerk. Currently, Planning Board meetings are held the second Tuesday of each month.

Reimbursement Contract: Pursuant to section 3.050 of the Site Plan Review Law for the Town of Hartwick, the applicant is required to pay any and all cost incurred by the Planning Board for consultation fees, or other extraordinary expenses in connection with the review of the proposed site plan. Projects cannot receive final review and/or approval without such payment. The Planning Board will determine a suitable deposit amount which will be held in escrow. As bills from legal counsel and/or engineers are presented to the Town of Hartwick, they will be paid by the Town from this account and copies will be forwarded to you. As escrow funds become low, the Town Planning Board will request additional funds. Failure to promptly pay shall be cause to table the application until payment is received. Final approval shall be null and void resulting in the revocation of any building permits, and shall require the applicant to re-file his application.

All projects located on New York State Highways, Routes 28 and 205, must have a copy of the site plan and application sent to the New York State Department of Transportation.

All projects located within the Town of Hartwick must be reviewed by The Army Corps of Engineers and the New York State Department of Conservation. Both will need a copy of your site plan and application. They would like a photo of the project sites that are up to two (2) acres in size. If there is water on the project site be sure to include the water in the photo.

The following addresses are provided for your information:

Army Corp of Engineers
1 Bond Street
Troy, NY 12180
Attn: Andrew Dangler
Ph: 518-270-0589

New York State Dept. of Conservation
6551 St. Hwy 10
Suite 1
Stamford, New York 12167
Attn: Martha Wood
Ph: 607-652-7741

New York State Dept. of Transportation
44 Hawley Street
Binghamton, NY 12901-4434
Attn: Craig England
Ph: 607-721-8082

New York State Dept. of Health
Oneonta District Office
28 Hill Street
Oneonta, New York 13820
Ph: 607-432-3911

If you have any questions, or require further information, please contact any of the Planning Board members.

Sincerely,

Town of Hartwick Planning Board

zh/June 06

APPLICATION FOR SITE PLAN REVIEW

Hartwick Town Planning Board

WHEN TO USE THIS FORM: This form is to be used by an individual who proposes an activity for which site plan review and approval is required under the provisions of Section 274(a) of the Town Law as adopted by the Hartwick Town Board and which became effective on December 26, 1993.

INSTRUCTIONS: Fully complete this application. Write "N/A" when "non-applicable". Applications, complete with \$50.00 filing fee, shall be filed with the Town Clerk for review. Once the application has been deemed complete by the Town Clerk, the application will be filed with the Planning Board for review.

Official Use Only	
Application Number:	SPR- _____
Delivery Date:	_____
Official Date of Receipt:	_____
Review by Planning Board:	_____
Date of Final Action:	_____
Date of Filing Final Decision with Town Clerk:	_____

Name of Proposed development: _____

Applicant:

Name: _____

Address: _____

Telephone: (____) _____

Plans Prepared By:

Name: _____

Address: _____

Telephone: (____) _____

Owner (if different):

Name: _____

Address: _____

Telephone: (____) _____

(if more than one owner, please provide information for EACH owner.)

Location of Site: _____

Tax Map Number: _____

Name of Proposed development: _____

State & Federal Permits needed (list type and appropriate department):

Describe proposed use(s) of site, including primary and secondary uses; ground floor area; height; and number of stories for each building.

- for residential buildings include number of dwelling units by size (efficiency, one-bedroom, two bedroom, three or more bedrooms) and number of parking spaces to be provided.
- for non-residential buildings, include total floor area and total sales area; number of automobile and truck parking spaces.
- other proposed structures or uses.

Total Site Area (square feet or acres): _____

Anticipated Construction Time: _____

Will development be staged? _____

Current Land Use of Site (agriculture, commercial, residential, undeveloped, wetlands, etc.)

Current Condition of Site (buildings, brush, etc.): _____

Characteristics of Surrounding Lands (agriculture, commercial, residential, undeveloped, wetlands)

Estimated Costs of Total Project: _____

Anticipated increase in number of residents, shoppers, employees, etc., as applicable:

Signature of Person Submitting Application AND Fee: _____

FOR OFFICIAL USE ONLY		
Amount of Required Deposit: _____	Date Received: _____	By: _____

Attach a site plan showing the following information, except as may be waived by the Planning Board or is described by written text accompanying this application:

1. Title of drawing, including name and address of applicant 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, type of construction of all parking and truck loading areas, showing ingress and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design, and type of construction materials of all existing or proposed site plan 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 securing potable water and location, design and construction of such facilities;
13. Location of fire and other emergency districts/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 and proposed development of all bugged areas, including existing vegetative cover;
16. Location and design of outdoor lighting facilities;
17. Identification of the location and amount of building area proposed for commercial activity;
18. General landscaping plan and planting schedule;
19. An estimate project construction schedule;
20. Record of application for and status of all necessary permits from other governmental bodies;
21. Identification of any permits from other governmental bodies required for the project's execution; and
22. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

Attach a completed PART I of the Environmental Assessment Form (EAF) using the Short or Long Forms as needed. Forms are available from the Town Clerk.

**TOWN OF HARTWICK
PLANNING BOARD**

DISCLOSURE STATEMENT

Pursuant to the requirements of General Municipal Law, Article 18, Section 809, an applicant seeking local approval for a planning or zoning action is obligated to disclose the name, residence and the nature and extent of the interest that any officer, appointee, or employee of the municipality may have with the applicant. Consistent with this requirement it is incumbent upon any such municipal officer(s), appointee(s) or employee(s) to disclose such interests to the Chair of the Planning Board before the commencement of any official discussion, deliberation or action so covered. The By-Laws of the Hartwick Town Planning Board require that "Any member of the Town Planning Board having any such interest in any matter brought before said Board, shall either absent or disqualify him/her self from any consideration, discussion or vote upon such matters. Such absence or disqualification shall be noted in the minutes of the Planning Board secretary, who shall also note that no vote was cast by such member(s) on said matter."

An officer or employee of the municipality is deemed to have an interest in the applicant when he/she, spouse, immediate family, including but not limited to brother/sister, parents, child, grandchild or the spouse of any of them (a) is the Applicant; (b) is an officer, director, partner or employee of the applicant, (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership applicant or association applicant, (d) is a party to an agreement with such an applicant, express or implied, whereby he/she may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon a favorable approval of such application, petition or request.

_____, the applicant for local approval of a planning or zoning action in the Town of Hartwick, hereby disclose one of the following: (check one)

_____ No Officer or Employee of the local agency from which approval is sought has any interest in the applicant.

_____ There exists an interest in the applicant by at least one officer or employee of the local agency from which approval is sought. Their interest(s) follows:

Name	Residence	Nature/Interest

**Note - Use additional sheets, if necessary

Print Name

Title

Signature

Date

TOWN OF HARTWICK

PLANNING BOARD

REIMBURSABLE COSTS CONTRACT

Section 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. This amount shall not be less than 1% and not more than 5% of the total amount of the project's estimated cost.

Pursuant to Section 3.050 of the Site Plan Review Law for the Town of Hartwick as adopted December 26, 1993, the applicant must sign the reimbursable costs contract in order for his/her project to be considered submitted in full. Failure to sign and submit this contract to the Planning Board Intake Clerk will deem the application incomplete and thus, ineligible for review.

=====

Applicant Name(s): _____ Phone: _____

Principal contact: (Name, address, phone number)

_____ Phone: _____

Project Name: _____

Pursuant to Section 3.050 of the Town of Hartwick Site Plan Review Law, as adopted December 26, 1993, the undersign hereby agrees to accept and pay any and all consultation charges and/or extraordinary expenses incurred by the Town of Hartwick as they relate to the above specified project. The undersign also agrees to make any necessary payments as per the terms of Section 3.050 of the Site Plan Review Law. It is understood that the application shall not be determined to be complete until all outstanding expenses have been satisfied or provisions have been made to the satisfaction of the Planning Board for all future expenses.

Signed: _____ Date: _____

_____ Date: _____

Signature Intake Clerk: _____ Date: _____

SITE PLAN REVIEW CHECKLIST

All items must be checked to constitute a complete application.

DRAWING & BUILDING SCALE

- Title of drawing
Name & Address of applicant & person responsible for preparation of drawing
- North arrow, scale & date
- Boundaries of the property plotted to scale
- Existing Buildings including any pertinent information regarding curb cuts, etc.
- Grading & Drainage plan
 - Existing and proposed contours
 - Rock outcrops
 - Depth to bedrock
 - Soil characteristics
 - Watercourses
- Location of construction
- Design of construction
- Type of construction
- Proposed use of building(s)
- Exterior dimension of building(s)

PARKING & TRUCK LOADING

- Parking & Truck loading area location, showing ingress & egress
- Design of all parking and truck loading area(s)
- Type of construction of all parking & truck loading area(s)
- Provision for pedestrian access

OUTDOOR STORAGE/SITE PLAN IMPROVEMENTS

- Location of outdoor storage
- Location of existing or proposed site plan improvements, including drains, culverts, retaining walls and fences
- Design of all existing or proposed site plan improvements, including drains, culverts, retaining walls and fences
- Construction materials of all existing or proposed site plan improvements including drains, culverts, retaining walls and fences

WATER/SEWAGE ISSUES

- Description of method of securing potable water
- Location of potable water source
- Design of potable water source
- Construction materials of potable water source/shed
- Description of the method of sewage disposal
- Location of method of sewage disposal
- Design of sewage disposal system
- Construction materials for sewage disposal system

FIRE DEPARTMENT ISSUES

- Location of fire and other emergency districts/zones
- Location of fire hydrants

ENERGY DISTRIBUTION ISSUES (ELECTRICITY/GAS/SOLAR/ETC.)

- Location of energy distribution facilities, including electrical, gas & solar energy
- Design of all energy distribution facilities, including electrical, gas & solar energy
- Materials used for all energy distribution facilities, including elec., gas & solar
- Location of all buffer areas, including existing vegetative cover
- Proposed development of all buffer areas, including existing vegetative cover
- Location of outdoor lighting facilities
- Design of outdoor lighting facilities
- Identification of the location and amount of building area proposed for commercial activity
- General landscaping plan and planting schedule

CONSTRUCTION SCHEDULE/PERMITS

- Estimated project construction schedule
- Records of application for and status of all necessary permits from other governmental bodies
- Identification of any permits from other governmental bodies required for the project's execution
- Other elements integral to the proposed development as may be considered necessary

- APPLICATION FEE - \$50.00
- DISCLOSURE STATEMENT
- SIGNATURE ON REIMBURSABLE COSTS CONTRACT (attached)
- ENVIRONMENTAL ASSESSMENT FORM (PART 1)
- LETTERS OF PROJECT APPROVAL FROM DOT, DEC, DOH AND/OR ANY OTHER STATE AGENCY AS NEEDED.

SUBMISSION MUST INCLUDE ORIGINAL AND EIGHT (8) COPIES TO BE CONSIDERED COMPLETE.

TOWN OF HARTWICK - SITE PLAN REVIEW LAW
EFFECTIVE DECEMBER 6, 1993

ARTICLE I
INTRODUCTORY PREVISIONS

SECTION 1.010 ENACTMENT. The Town Board of the Town of Hartwick of Otsego County, New York, does hereby ordain and enact the Town of Hartwick 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 Hartwick Site Plan Review Law." The Town of Hartwick 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. It is not the intent of this local law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in the local law.

1.040 AUTHORIZATION OF PLANNING BOARD TO REVIEW SITE PLANS. The Hartwick Town Planning Board is hereby authorized by the Hartwick Town Board to review and approve or disapprove site plans for land uses within the Town of Hartwick 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 activity within the Town shall require site plan review and approval before being undertaken, except the following:

1. Construction of a one family dwelling or one two-family dwelling or duplex and ordinary accessory structures or agricultural structures.
2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Nonstructural agricultural and gardening uses not involving substantial timber cutting of trees within the viewshed of any Town, County or State road or highway.
5. Timber harvesting of any nature.

6. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
7. Garage, lawn and porch sales not exceeding three days if such sales take place more often than three (3) times a year in any calendar year, site plan approval will be required.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.

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 the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

2.040 DEFINITIONS.

“Family” means a person or persons related to each other by blood, marriage or adoption, (and/or not more than three individuals not so related), living together as a single housekeeping unit.

“Land Use Activity” means any construction or other activity which changes the use or appearance of 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 and mineral deposits.

“One Family Dwelling” means a complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities, for living including cooking, sleeping and sanitary needs.

“Shoreline” means the mean high water maker 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 principle use, a storage shed, garden house, or similar facility.

“Two-Family Dwelling or Duplex” means two complete but separate self-contained residential units intended for permanent habitation by one family each for a period of a month or more in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living, including cooking, sleeping and sanitary needs.

Any term use 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 except for a one or two family dwelling and other uses specifically excepted in Section 2.010 of this local law, a site plan approval by the Planning Board is required. *Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements to this local law.*

3.020 SKETCH PLAN. A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his or her proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following, as determined necessary by the Planning Board:

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

3.030 APPLICATION REQUIREMENTS. An application for site plan approval shall be made in writing to the Chairperson(s) of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

Site Plan Checklist:

All items must be checked to constitute a complete application.

Drawing & Building Scale

- Title of drawing
 - Name & Address of applicant & person responsible for preparation of drawing.
- North arrow, scale and date

- Boundaries of the property plotted to scale
- Existing Buildings including and pertinent information regarding curb cuts, ect.
- Grading & Drainage plan
 - Existing and proposed contours
 - Rock outcrops
 - Depth to bedrock
 - Soil characteristics
 - Watercourses
- Location of construction
- Design of construction
- Type of construction
- Proposed use of building(s)
- Exterior dimensions of building(s)

Parking & Truck Loading

- Parking & Truck loading area location, showing ingress & egress
- Design of all parking and truck loading area(s)
- Type of construction of all parking and truck loading area(s)
- Provision for pedestrian access

Outdoor Storage/Site Plan Improvements

- Location of outdoor storage
- Location of existing or proposed site plan improvements, including drains, culverts, retaining walls and fences
- Design of all existing or proposed site plan improvements, including drains, culverts, retaining walls and fences
- Construction materials of all existing or proposed site plan improvements including drains, culverts, retaining walls and fences

Water/Sewage Issues

- Description of method of securing potable water
- Location of potable water source
- Design of potable water source
- Construction materials of potable water source/shed
- Description of the method of sewage disposal
- Design of sewage disposal system
- Construction materials for sewage disposal system

Fire Department Issues

- Location of fire and other emergency districts/zones
- Location of fire hydrants

Energy Distribution Issues (Electricity/Gas/Solar/Etc.)

- Location of energy distribution facilities, including electrical, gas and solar energy
- Design of all energy distribution facilities, including electrical, gas and solar energy
- Materials used for all energy distribution facilities, including elec., gas and solar
- Location of all buffer areas, including existing vegetative cover
- Proposed development of all buffer areas, including existing vegetative cover
- Location of outdoor lighting facilities
- Design of outdoor lighting facilities
- Identification of the location and amount of building area proposed for commercial activity
- General landscaping plan and planting schedule

Construction Schedule/Permits

- Estimated project construction schedule
- Records of application for and status of all necessary permits from other governmental bodies
- Identification of any permits from other governmental bodies required for the project's execution
- Other elements integral to the proposed development as may be considered necessary
- LETTERS OF PROJECT APPROVAL FROM DOT, DEC, DOH, AND/OR ANY OTHER STATE AGENCY AS NEEDED.

SUBMISSION MUST INCLUDE ORIGINAL AND EIGHT (8) COPIES TO BE CONSIDERED COMPLETE.

3.040 REQUIRED FEES. An application for site plan review shall be accompanied by a fee as established by the Town Board Schedule of fees.

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. One-third shall be paid at the sketch plan phase, one-third at site plan review phase, and one-third at approval of project.

ARTICLE IV REVIEW STANDARDS

SECTION 4.010 GENERAL STANDARDS AND CONSIDERATIONS. The Planning Boards' review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

2. Adequacy and arrangements of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Locations, arrangements, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of stormwater and drainage facilities. Sites shall have a "zero increase" in stormwater and drainage runoff from the site.
6. Adequacy of potable water supply and sanitary sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants or other acceptable water supply for emergency purposes.
9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
10. Overall impact on the neighborhood including compatibility of design considerations.

4.020 SPECIFIC STANDARDS AND CONSIDERATIONS. The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

4.021 SHORELINE STANDARDS AND CONSIDERATIONS.

1. All construction 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 one hundred (100) feet of any shoreline and no septic or other holding tank shall be located within fifty (50) feet of any shoreline, as measured from the normal high water mark of the waterbody.
3. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system.
4. 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 introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such manner so as to afford adequate protection.
5. Any paved or otherwise improved parking, loading or service area within one hundred (100) feet of any shoreline shall be designated and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

**ARTICLE V
PUBLIC HEARING AND PLANNING BOARD DECISION**

SECTION 5.010 PUBLIC HEARING. The Planning Board *may* conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within sixty-two (62) days of the receipt of application for site plan review and shall be advertised in the Town's official newspaper at least five (5) days before the public hearing.

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

1. **Approval:** Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
2. **Approval with Modifications:** The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant by the certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable 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 reason(s) for disapproval.

**ARTICLE VI
APPEAL OF PLANNING BAORD DECISION**

6.010 APPEALS PROCEDURE. Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the Town, may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

**ARTICLE VII
MISCELLANEOUS PROVISIONS**

SECTION 7.010 ENFORCEMENT OFFICER. The Town Board may appoint an enforcement officer to carry out the duties assigned by this local law or by any additional regulations adopted pursuant to section 7.020 hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

7.020 FURTHER REGULATIONS BY PLANNING BOARD. The Planning Board may, after a public hearing, adopt a set of rules and regulations necessary to carry out the provisions of this local law.

7.030 AMENDMENTS.

1. The Town Board may on its own motion, on petition, or on recommendation of the Planning Board, after a public notice and hearing, amend this local law pursuant to all applicable requirements of the law.
2. All proposed amendments originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within 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.

7.040 INTEGRATION OF PROCEDURES. Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local 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.

7.050 ENFORCEMENT. Any person, corporation, partnership, association, or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than five hundred dollars (\$500) to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

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

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR	2. PROJECT NAME
3. PROJECT LOCATION: Municipality _____ County _____	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: _____	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? Yes No If yes, coordinate the review process and use the FULL EAF.

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

**TOWN OF HARTWICK
- Sign Permit Application -**

(1) APPLICANT:

- a) Business and/or Responsible Party:
- b) Mailing Address of Applicant:
- c) City: _____ State: _____ Zip: _____
- d) Phone: _____

(2) SIGN LOCATION:

- a) Property Owner (if different from Applicant):
- b) Tax Parcel Number:
- c) Street Address Where Sign is to be Located:
- d) Attach a location map of the property where the sign will be located. PROVIDED NOT PROVIDED

(3) TYPE OF SIGN (Check All that Apply):

- | | | |
|---|--|---|
| <input type="checkbox"/> Temporary Sign (<120 days) | <input type="checkbox"/> Projecting Sign | <input type="checkbox"/> Vehicle Sign |
| <input type="checkbox"/> Temporary Event Sign (<14 days) | <input type="checkbox"/> Marquee Sign | <input type="checkbox"/> Changeable Copy Sign |
| <input type="checkbox"/> Free-Standing Sign | <input type="checkbox"/> Canopy Sign | <input type="checkbox"/> Off-Site Sign |
| <input type="checkbox"/> Wall Sign | <input type="checkbox"/> Construction Sign | <input type="checkbox"/> Window Sign |
| <input type="checkbox"/> Home Occupation/Res. Office Sign | | <input type="checkbox"/> Other (Specify): |

(4) SITE INFORMATION:

- a) Distance of proposed sign from each property line (if applicable):
Front Property Line ft Side 1-Property Line ft Side 2-Property Line ft
- b) Attach a map showing the location of the sign on the site and/or building upon which the sign is to be erected. PROVIDED NOT PROVIDED
- c) Attach a color photo (or photos) of the site or building upon which the sign is to be erected and any immediately adjacent building(s). PROVIDED NOT PROVIDED

(5) SIGN INFORMATION AND SKETCH:

- a) Dimensions of Sign #1: Width = ft Height = ft Total Sq Feet =
Dimensions of Sign #2: Width = ft Height = ft Total Sq Feet =
- b) Time period for which sign(s) will be in place:
 PERMANENT TEMPORARY (Specify Estimated Number of Days)
- c) Attach a sketch drawn to scale with supporting information indicating the sign colors, size, size and types of lettering or other graphics, logos and materials to be used, electrical or other mechanical equipment, details of its attachment and hanging, etc. PROVIDED NOT PROVIDED

(6) IS A VARIANCE REQUESTED AS PART OF THIS APPLICATION? YES NO

IF YES, INDICATE THE TYPE OF RELIEF REQUESTED:

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Dimension | <input type="checkbox"/> Design Standard |
| <input type="checkbox"/> Location | <input type="checkbox"/> Other (Specify): |

(7) SIGNATURES:

a) **APPLICANT:** "I certify that this document and all attachments were prepared under my direction and the information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

Signature of Applicant

Date

a) **OWNER:** "I, the owner of the above-referenced property upon which said sign is to be located, hereby certify that I am aware of and agree to the placement of this sign as proposed."

Signature of Owner

Date

FOR USE BY PLANNING BOARD ONLY

DATE OF APPLICATION ACCEPTANCE:

IS THE TYPE OF SIGN CORRECTLY INDICATED ON REVERSE? YES NO
IF NO, SPECIFY

APPLICATION FEE: \$25.00

DOES THIS APPLICATION REQUIRE A VARIANCE REQUEST? YES NO
IF YES, IS THERE A NEED FOR PUBLIC HEARING: YES NO

SIGN PERMIT DETERMINATION: *Approved*
 Disapproved
 Approved with Suggested Modifications

DATE OF DETERMINATION:

SPECIFY SUGGESTED MODIFICATIONS:

SPECIFY REASON(S) FOR DISAPPROVAL:

Town of Hartwick
Ordinance To Regulate Signs

Ordinance To Regulate Signs

AN ORDINANCE relating to the erection, construction, repair, alteration and maintenance of signs in the **TOWN OF HARTWICK, NEW YORK.**

SECTION I. LEGISLATIVE INTENT

The purpose of the ordinance is to regulate existing and proposed outdoor advertising, outdoor advertising signs, outdoor signs of all types, and certain other signs in order to enhance and protect the physical appearance of community. It is further intended hereby to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that might be caused by overhanging or projecting signs over public rights of way, provide more open space and curb the deterioration of natural beauty and community environment.

SECTION II. SHORT TITLE

This ordinance shall hereafter be know and cited as the “Sign Ordinance” of the Town of Hartwick.

SECTION III. DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

Erect – build, construct, alter, paint, repair, display, relocated, attach, hang, place, suspend, affix or maintain any sign.

Front or Face of a Building – The outer surface of a building, which is visible from any private or public street or highway.

Lighting Device – Any light, string of lights or group of lights located or arranged so as to illuminate a sign.

Person – Any firm, association, organization, partnership, trust, company or corporation as well as an individual.

Planning Board – As created by the Town Board of the Town of Hartwick to perform such functions as the Town Board may direct.

Sign – Any device located or used on the exterior or in the interior side of any window or unattached and separate from any building, designed primarily to inform or attract the attention of persons not on the premises on which said device is located or on the immediate street frontage thereof. Such devices include, but are not limited to wall signs, projecting signs and freestanding signs as defined in this ordinance containing advertisements, announcements, notices, directional matters, names, declarations, demonstrations, displays, illustrations or insignia, whether changeable or permanent, used to advertise or promote the interests of a person or business when the sign is placed in view of the general public. Such signs may be known as buill boards, signs boards, signs frames, painted signs, hanging signs or ground signs and include illuminated, moving, flashing or fluttering devices.

Sign Construction – Any sign denoting the architect, engineer, contractor or similar person responsible for the construction, repair or renovation work on the premises.

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Sign, Freestanding – Any sign not attached or painted on a building and having an independent fixed location.

Sign, Illuminated – Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light.

Sign, Off Site – Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

Sign, Non-conforming – Any sign which is prohibited, regulated or restricted under the terms of this ordinance or future amendments.

Sign, Portable – Any sign not fastened to a structure or to the land, readily movable to other locations.

Sign, Projecting – Any sign which projects from the exterior of any building.

Sign, Seasonal – Any sign erected for 120 days.

Sign, Wall - Any sign or combination of signs painted on or attached to the exterior front of the face of a building and not projecting there from. All wall signs shall not exceed in total square footage two times the width of the building face.

Street Line – The outside right-of-way line of a public street or way which has been platted, deeded or otherwise officially recorded. Where no record exists, the outermost edge (as measured from the center of the street) of the recognized sidewalk shall be used, or 25 feet from the centerline of the street, whichever is greater.

The word **SHALL** is mandatory; the word **MAY** is permissive.

SECTION IV. JURISDICTION

The following shall not be included in the application of the regulations of this ordinance, provided they are not erected where they will impair public safety.

- A. Signs not exceeding four square feet in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
- B. Flags and insignia of any government.
- C. Legal notices, identification, information or directional signs erected by governmental bodies.
- D. Integral decorative or architectural features of buildings except letters, trade marks, moving parts or moving lights.
- E. Any agricultural or historical (greater than 15 years old or historical) signs.
- F. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- G. Signs not exceeding four feet square, onsite, of a commercial connotation erected for the duration of one month.

Any application for registration of any proposed, erected, altered or moved sign shall be made to the Planning Board with two copies of the registration application showing certain required information as stated in Section VIII, Registration Procedure of this ordinance. Said Board shall, within 30 days of receiving a registration application, render a decision as to the acceptability of the sign based on compliance with the regulation of the Sign and other Town regulations.

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The Planning Board shall in its review, accept or reject the submitted sign information and report its decision to the registrant. If the sign is rejected, the Planning Board shall indicate in its report the reason for such rejection. It may also include appropriate suggestions for modification. Any sign not in compliance with the ordinance will not be approved; by the Planning Board; without a variance.

The Planning Board shall resolve all questions of interpretation of this ordinance and recourse from its decision shall be to the town Board of the Town of Hartwick. (see Section VIII, paragraph 6).

SECTION V. GENERAL PROVISIONS:

All areas. The following are specifically prohibited:

- a. Signs so located as to restrict vision and impair safety.
- b. Lighting devices so placed or directed as to permit the illumination there from to be directed or beamed upon a public street, highway, sidewalk or nearby premises so as to cause glare or reflection that constitutes a hazard or nuisance.
- c. Banners, posters, pennants, ribbons, spinners, streamers, or other similar moving, fluttering or revolving devices, whether part of a sign or used for the purpose of advertising or attracting attention when not part of a sign. Excluded are flags identifying that a business is open, not to exceed three feet by five feet, and displayed only during business hours. Exceptions may be granted upon application to the Planning Board of the Town of Hartwick for firms promoting new products or services for a period not to exceed 15 days and with a frequency not to exceed annually.
- d. Signs illuminated by or containing flashing, intermittent, rotating or moving lights.
- e. Signs or sign structures exceeding fifteen feet in height.
- f. The unauthorized use of Town property by placing signs on public utility poles, trees and shrubs, and on other signs directing or guiding traffic.

All areas. Only the followings signs shall be permitted:

- a. One sign advertising the sale or rent of the land or building upon which it is located, not exceeding six square feet in area.
- b. One sign for each residence, professional residence-office, home occupation, and other permitted activity associated with the residence, not exceeding eight square feet. Such signs shall be at least ten feet distant from the street line and at least fifteen feet from any other lot line. Exception: should the building frontage be on or within the above described distances, wall signs may be permitted in accordance with the preceding limitations.
- c. One institutional or religious identification sign not exceeding twenty four square feet.
- d. Businesses are allowed wall signs as per definition.
- e. One principle free standing on-site business sign for any commercial or industrial use not to exceed 32 square feet and not to exceed 8 feet in any one dimension.

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- f. Only on-site signs shall be illuminated an only until 9:00 p.m. or during regular business hours, whichever is later.
- g. A sign may not project over a street line, public street, alley, lane or sidewalk unless such sign is attached to building in which case such sign may not project more than three feet from the building to which it is attached and must be a minimum of eight feet above the ground.

SECTION VI. SUPPLEMENTARY REGULATIONS;

Non-Conforming Signs.

This ordinance recognizes the existence of signs which would not conform to the provisions of this ordinance. It is the intent of this ordinance to permit these non-conforming signs to continue until they are removed or discontinued, but not to encourage their survival.

It is further the intent of this ordinance that a non-conforming sign shall not be replaced with another non-conforming sign nor enlarged upon nor used as grounds for adding to or otherwise amending the sign.

Seven years from the date of the enactment of this ordinance, all non-conforming signs exceeding the allowable square footage shall be discontinued and removed from the premises except by approval of a requested variance.

A **non-conforming sign** may be temporarily removed for painting, repair or other normal maintenance purposes if restored within six months. Such restoral shall not be permitted if this period of time is exceeded.

Other Regulations.

Construction signs may not exceed twenty-four square feet in area and shall be removed promptly on completion of work.

A two-faced projecting or freestanding sign shall be counted as one sign.

Any sign **no longer advertising an existing business** conducted or product sold on the premises shall be removed by the owner within sixty days.

Unsafe or insecure signs shall be repaired or removed by the owner. The codes official may cause any sign of immediate danger to persons or property to be removed summarily.

Temporary unlighted signs may be erected for a two week period without permit in any area, provided that the sign will not constitute a traffic hazard and shall be removed within forty-eight (48) hours after the advertised event concludes. Such signs shall not exceed the size limits allowed in the respective areas. There shall be a

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limit of two (2) temporary signs per business/activity not to exceed sixteen (16) square feet and five (5) feet in any one dimension.

SECTION VII. ADMINISTRATION AND ENFORCEMENT

Administration and enforcement of this ordinance shall be by the Town Board of Hartwick or their designee.

If the Town Board, or their designee, shall find that any of the provisions of this ordinance are being violated, it shall notify in writing the person responsible for such violations, indicating the nature of such violations and ordering the action necessary to correct it. The Town Board or their designee is hereby empowered to order the removal or discontinuance of illegal signs or of additions, alterations or structural changes thereto; or to take any other action authorized by said Town Board to insure compliance with or to prevent violations of its provisions.

Any person, whether agent, architect, builder, contractor, owner, tenant, or otherwise, who is found to be in violation of any provision of this ordinance shall be allowed 15 days to be in compliance with this ordinance or be subject to a penalty of \$50.00 for any such violation for each day after the 15th day that said violation continues. Question of enforcement of this ordinance shall be resolved by the Hartwick Town Board.

SECTION VIII. PERMIT PROCEDURE

No sign, unless exempted by this ordinance, shall be erected, moved, altered, added to or structurally changed without a permit therefore, issued by the Planning Board. No permit shall be issued except in conformance with the provisions of this ordinance, except after written order from the Planning Board.

All applications for sign permits shall be accompanied by plans in duplicate with a sketch showing size, location, and plans for illumination, if any.

Exceptions: A sign to be repainted or repaired shall not require a permit.

One copy of the plans shall be returned to the applicant by the Planning Board after they shall have a marked both copies as approved or disapproved.

A variance is a relaxation of the terms of the sign ordinance where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. The Planning Board may require a public hearing. If approved, a requested variance shall remain in effect for as long as the applicant continues to operate said business.

Any applicant wishing to appeal a negative decision of the Planning Board must do so in writing to the Town Board of Hartwick within thirty (30) days of said denial and

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shall receive a review from the Town Board within thirty (30) days of the date of filing of the appeal.

SECTION IX. CONFLICT WITH OTHER LAWS

In the interpretation and application of this ordinance, the provisions thereof shall be held to be minimum requirements and are not intended to repeal, modify, or impair any existing provisions of law relative to the use of signs. This ordinance shall apply only where it imposes greater restrictions upon the use of signs than is required by existing provisions of law. In case of conflict with existing or future provisions of law, the most restrictive provisions of the statutes applicable shall apply.

SECTION X. APPLICATION AND CONSTRUCTION

This ordinance is applicable within the Town of Hartwick and shall be construed as an exercise of the powers of the Town to regulate, control and restrict the use of buildings, structures, and land for outdoor advertising purposes, displays, signs and other advertising media in order to promote the health, safety, morals and general welfare of the community, including the protection and preservation of the property of the Town and its inhabitants and of peace and good order, for the benefit of trade and all matters related thereto.

SECTION XI. VALIDITY

If any section, subsection, phrase, sentence or portion of this ordinance is for any reason held to be invalid as unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.