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Town of White Creek Site Plan Review Law  
Local Law No. \_\_\_\_\_

**Article A**  
**Introduction**

**§1 Enactment.** The Town Board of the Town of White Creek, Washington County, New York, does hereby ordain and enact the Town of White Creek 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.

**§2 Short title.** This local law shall be known as the "Town of White Creek Site Plan Review Law." The Town of White Creek is hereinafter referred to as the "Town."

**§3 Intent and Purposes.** The overall purpose of site plan review is to plan for and design commercial, multifamily and industrial development when it occurs on a single parcel of land. This is in contrast to subdivision review which is to plan for development that comes about as a result of a single parcel of land being split into two or more parcels of land. Through a site plan review, it is the purpose of this local law to promote the health, safety, and general welfare of the Town. This includes promoting agriculture and conserving and protecting agricultural resources. It is a further purpose to ensure that new growth and development in the Town is consistent with the adopted Town of White Creek Comprehensive Plan. Additionally, through site plan review, the Town Board hopes to maintain a clean, attractive rural environment. Such an environment is hereby declared to be very important to the health and safety of Town's inhabitants and essential to the optimum development of the Town's economy.

It is also the intent of this law to ensure the conservation of the natural and man-related resources of the Town. Toward that end, this law provides a means for the Town to:

- (1) conserve its agricultural resources and promote the Town's agricultural economy;
- (2) preserve water and air quality;
- (3) minimize traffic congestion and intrusive development impacts on nearby properties;
- (4) ensure access for emergency vehicles (police, fire protection and ambulance service); and
- (5) provide adequate water supply and sanitary means for sewage and solid waste disposal.
- (6) Protect the Town's natural resources and to retain undeveloped natural areas and corridors, to sustain a diversity of native vegetation and wildlife, to prevent pollution of air, streams and other waterbodies including wetlands and aquifers, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the community and the value of the land.

**§4 Authorization for planning board to review site plans.** The Planning Board of the Town (hereinafter the "Planning Board") is hereby authorized to review and approve, approve with conditions

or disapprove site plans for land uses within the Town pursuant to Section 274-a of the Town Law in accordance with the criteria and procedures set forth below.

## **Article B**

### **Applicability and Definitions**

**§1 Applicability.** The intent of this law is to provide for site plan review of commercial structures and utilities, multi-family and industrial development projects, to provide for an abbreviated site plan review process for single-family residences, and to exempt small scale land use activities such as minor home occupations and agriculture that do not have the potential for significant impacts on Town resources.

**§2 Land uses subject to and exempted from site plan approval.** All new land use activities, including major home businesses, mobile home parks and travel trailer parks proposed within the Town shall require site plan review and shall meet all procedures and standards of Articles A through F of this Law. Single-family and two-family dwellings, including mobile homes outside of a mobile home park shall meet all procedures and standards of Article A, B, E, and F.

The following uses are exempted from site plan review

- (1) Construction of ordinary accessory structures (garage, barn, storage building, temporary houses during construction) including one accessory apartment to an individual single family dwelling, and related land use activities such as minor home businesses.
- (2) Ordinary repair or maintenance of existing structures.
- (3) Agricultural land uses and structures except commercial composting facilities.
- (4) Alterations to existing uses (that would otherwise be subject to review) that do not increase the floor area by more than ten percent (10%).
- (5) Residences, including mobile homes that replace existing homes and that are placed on the same location on the lot and the same building footprint as the structure being replaced.
- (6) Signs under sixteen (16) square feet that are not part of a project that is subject to review. (Off-premise signs with a sign face greater than 40 square feet are prohibited in the Town of White Creek pursuant to Local Law 3 of 2000).
- (7) Incidental landscaping or grading less than one acre in size, but not grading and filing greater than one acre in size or that used to clear land for conversion of some or all of the parcel for commercial use.
- (8) Minor Home Occupations.
- (9) Change of use or change in ownership of an existing structure when there is no change in the intensity of use, size of parking lots, signage, or when the structure does not change in size by

more than 50%.

**§3 Effect on existing uses.** This law does not apply to land use activities or structures that are lawfully in existence on the date this law or any amendments to this law becomes effective. Any use that would otherwise be subject to this law, which 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 law, or any of its amendments.

Uses related to the dealers in second hand junk and auto parts related activities and businesses shall follow the Ordinance Licensing and Regulating Dealers in Second Hand, Junk and Auto Parts Activities and Businesses adopted by the Town of White Creek, February 13, 1968.

**§4 Jurisdictional determination.** Any person uncertain of the applicability of this law to a given land use activity may request a written jurisdictional determination from the Planning Board.

## **§5 Definitions.**

"Accessory structure" or "accessory use" means a secondary structure or use on the same lot or on a contiguous lot in the same ownership which is associated with the principle use or structure, and which is incidental and subordinate to the principle use or structure.

"Agricultural land uses" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation", a "timber operation" and "compost, mulch or other biomass crops" and "commercial equine operation" as defined in AML Section 301.

"Agricultural structure" means any building customarily associated with agricultural use such as barns, silos, roadside fruit and vegetable stands or garages, manure lagoons, and small wind or solar energy devices used in relationship to the farm.

"Buffer Area" An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

"Change of Use" The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code. Chapter 3 (Use and Occupancy Classification) of the Building Code of New York State shall be used to define uses that are not specifically defined in this local law. Change of occupancy or change of ownership shall not be construed as a change of use.

"Commercial Composting Facility" means a commercial establishment designed to manage and control

the process of degrading organic matter by microorganisms. A composting facility can accept no more than 1,000 cubic yards of source-separated organic waste per year, animal manure and associated animal bedding material, not more than 3000 cubic yards of yard and brush waste and food waste. Organic materials suitable for a composting facility shall not include construction and demolition debris, organic materials containing heavy metals, or sewage sludge.

“Commercial Design Standards” is a set of guidelines to be followed in site and/or building design and development of commercial uses to help maintain the character of a community and prevent new commercial development from dramatically changing the physical and visual footprint of the community.

“Commercial Use” is any activity involving the sale of goods or provision of services carried out for profit; and other economic activities including mining, construction, manufacturing, transportation, communication, electric, gas, and sanitary services; industrial or large-scale electrical production, wholesale trade; and any activity involving an office for conducting the affairs of a business, profession, service, industry or government.

“Complete Application” means an application for development that includes all required documents and submittals pursuant to this ordinance, and where a negative declaration has been made or a draft environmental impact statement has been accepted by the reviewing agency.

“Comprehensive Plan” means a document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community’s problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Town Law 272-a.

“Consistent in Size and Scale” conveys the Town’s intent that new development be similar to existing development in terms of size, height, bulk, intensity and aesthetics to its surroundings. New and modified structures should match the context established by neighboring buildings.

“Cut and Fill” means a portion of land surface or area from which earth has been removed or will be removed by excavation and then the earth is moved and deposited to fill in another location.

“Dwelling, Multiple Family” is a building or group of buildings located on one lot, each containing three (3) or more dwelling units and designed or used for occupancy by families living independently of each other. A multiple family dwelling includes townhouses. Multiple-family dwellings shall be considered a commercial use and subject to site plan review. A multiple family dwelling unit is distinguished from an accessory apartment because the structure is designed and used as the primary use whereas an accessory apartment is clearly subordinate to the principal use of the single family dwelling.

“Environmental Assessment Form (EAF)” means a form used to determine whether a project may have significant environmental impacts. Depending on the site’s environmental features and the project’s magnitude, either a short or full SEQRA Environmental Assessment Form will be completed.

“Environmental Constraint” means an area with one or more of the following environmental characteristics: 1) steep slopes > 15%; 2) floodways and 100-year flood plain; 3) exposed bedrock or areas of land incapable of meeting percolation requirements; 4) aquifer recharge or discharge areas; 5) habitats of endangered species; and 6) regulated wetlands.

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“Environmental Impact Statement (EIS)” is a document prepared pursuant to SEQRA, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

“Glare” means the effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual clarity and visibility.

"Family" means one or more persons living together as a single housekeeping unit and maintaining a common household.

"Floor space" shall include the gross floor space of a structure, parking areas and all paved surfaces.

“Habitat” is the place occupied by an organism, population, or community. It is the physical part of the environment in which an organism finds its home and satisfies essential life history requirements for food, water and shelter, and includes the sum total of all the environmental conditions present in the specific place occupied by an organism.

“Hazardous Substance” is any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

“Hazardous Waste” is a waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalis with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or fails the Toxicity Characteristic Leaching Procedure (TCLP).

"Home business" means any business use customarily carried on within a residence, provided that such use is conducted by the residents of that dwelling, is secondary to the use of the dwelling and does not substantially alter the character of the dwelling.

Home Business, Major: A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than four persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. A sign is likely to be present. Other exterior evidence of this secondary use includes customers, clients, and other business associates entering the premises daily; storage of business products, waste, equipment, or vehicles is required regardless of the number of employees; and delivery truck visits or other traffic beyond that expected of a typical residence may occur.

Home Business, Minor: A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than two persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small sign or lawn plaque. Few customers, clients, or other business associates enter the premises daily. The business does not store business products, equipment or vehicles outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

“Impervious Surface” is any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot that does not allow precipitation and melted snow to penetrate into the soil.

"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.

“Mobile Home” is a residential structure built entirely in the factory under a federal building code administered by the U.S. Department of Housing and Urban Development (HUD). The Federal Manufactured Home Construction and Safety Standards (commonly known as the HUD Code) went into effect June 15, 1976. Mobile homes may be single- or multi-section and are transported to the site and installed. Mobile homes are built as dwelling units of at least 320 square feet (30 m<sup>2</sup>) in size with a permanent chassis to assure the initial and continued transportability of the home." The requirement to have a wheeled chassis permanently attached differentiates "mobile housing" from other types of prefabricated homes, such as modular homes.

“Mobile Home, double-wide” is a manufactured home, transportable in two sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is a minimum of 700 or more square feet, and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. A recreational vehicle is not included in this definition. Manufactured homes differ from modular or industrialized housing.

“Mobile Home, single-wide” is a manufactured home, transportable in one section, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 700 or more of square feet, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A recreational vehicle is not included in this definition.

“Mobile Home Park” is a residential use in which two or more mobile homes (double-wide or single-wide) are located on a single property. It is a site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured homes and may include services and facilities for residents.

“Natural Feature” refers to any non-man-made element of the environment including, but not limited to

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surface water bodies, ground water, habitats, plants and wildlife, geologic, or topographic features.

“Noise, Nuisance” means an undesired audible sound that interferes with the enjoyment and use of property. For purposes of this law a decibel level exceeding 70 dB measured at the property boundary shall be a nuisance noise.

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

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

“Prime Soils” as defined by the U.S. Department of Agriculture, is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses. It could be cultivated land, pastureland, forestland, or other land, but it is not urban or built-up land or water areas. The soil quality, growing season, and moisture supply are those needed for the soil to economically produce sustained high yields of crops when proper management, including water management, and acceptable farming methods are applied. In general, prime farmland has an adequate and dependable supply of moisture from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, an acceptable salt and sodium content, and few or no rocks. The water supply is dependable and of adequate quality. Prime farmland is permeable to water and air. It is not excessively erodible or saturated with water for long periods, and it either is not frequently flooded during the growing season or is protected from flooding. Slope ranges mainly from 0 to 6 percent. Prime soils also include those soil series designated as such in the National Cooperative Soil Survey for Washington County.

“Sensitive Environmental Features and Areas” refers to natural resource locations that have a high potential for significant damage or degradation from direct or cumulative impacts arising from new development or shifts in existing land uses. Some sensitive environmental features and areas have been inventoried, mapped or identified as being locally, regionally, nationally or globally significant for its rarity and/or degree of vulnerability. Typical examples include but are not limited to: wetlands, streams/river corridors, steep slopes, floodplains, highly erodible soils, and aquifer recharge and discharge areas, and habitats of rare or endangered species.

“SEQRA (State Environmental Quality Review)” is the required environmental review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, Section 8-0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

“Sight Distance” is the length of an unobstructed view from a particular access point to the farther visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

“Sign” is any structure or part thereof, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of an announcement, direction or advertisement. A sign includes a bill board, neon tube, fluorescent tube, or other artificial light or string of lights, outlining or hung upon any part of a building or lot for the purposes mentioned above, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious, or similar organization, campaign, drive, movement or event which is temporary in nature.

“Sketch Map” is the conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

“SPDES General Permit for Construction Activities GP-O2-01” is a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

“Steep Slope” means any land area where the slope exceeds 15%.

"Structure" means anything constructed or built, any edifice or building of any kind, including without limitation signs, towers, and tanks.

Water-body: Any natural or man- made body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

Any term used in this law which is not defined above shall carry its ordinary meaning.

## **Article C**

### **Site Plan Review Procedure**

**§1 General Procedures.** Before beginning any new land use activity, except uses specifically exempted by Article B, §2 of this law, a site plan approval by the Planning Board is required.

**§2 Sketch plan.** A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and filing of a formal site plan with the Planning Board. The purposes of such a conference are 1) to enable the applicant to inform the Planning Board of a proposal prior to the preparation of a detailed site plan and 2) 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 and for a complete application. In order to accomplish these objectives, the applicant shall provide the following.

- (1) A statement and rough sketch map showing the locations and dimensions of principal and accessory structures, parking areas, access signs, existing vegetation and other natural features, other proposed structures and features, and anticipated changes in the existing topography and natural features found on the site;
- (2) An area map showing the parcel that is the subject of the application for site plan review, and surrounding properties, subdivisions, streets, rights-of-way, easements and other pertinent features. This area map should also indicate if there are any active agricultural activities taking place on or adjacent to the proposed site, and if the location is included in a NYS Agricultural District;
- (3) A topographic or contour map to show site topography. The Planning Board shall have the discretion to waive the provision of a topographical map in the event that the applicant shall show that the contour of the subject matter parcel(s) does not impact the project or its impact in any manner.

**§3 Application for site plan approval.** To apply for site plan approval, an applicant shall file with the clerk of the Planning Board, at least fifteen (15) business days before the next scheduled meeting of the Planning Board, the following:

- (1) seven (7) copies of a site plan review application;
- (2) Seven (7) copies of a short or full form environmental assessment form pursuant to SEQRA 6 NYCRR 617, as determined by the Planning Board at the site plan review sketch conference (and if required by state law);
- (3) Seven (7) copies of an agricultural data sheet pursuant to AML 25-aa (if required by state law);
- (4) A site plan application processing fee as may be established by the Town Board;
- (5) Seven (7) copies of a site plan showing all the information provided on the sketch plan and (as applicable) the following:
  - (6) Title of the site plan, including the name and address of the applicant(s) and person who prepared the plan;
  - (7) North arrow, scale and date of the plan;
  - (8) Boundaries of the property drawn to scale;
  - (9) Location, size and existing use of structures on the property;
- (10) Location and owners (including their addresses) of all adjacent lands as identified on the latest tax records;
- (11) Location, name and width of existing adjacent roads and proposed roads;

- (12) Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, reservations, and areas dedicated to public use on or adjoining the property.
- (13) Grading and drainage plan, showing existing and proposed contours and water courses.
- (14) Soil erosion and sediment control plans, and if more than one acre of land will be disturbed, a stormwater pollution prevention plan that meets the requirements of NYS stormwater laws. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The stormwater management and stormwater pollution prevention plans shall be prepared in compliance with the Stormwater Design Manual of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) program and with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations.
- (15) Location, exterior design, type of construction, and exterior dimensions of all proposed structures.
- (16) Identification of the amount of gross floor area proposed for retail sales and services, offices, and other commercial or industrial facilities.
- (17) Location, type of construction, and area of all parking and truck loading areas, showing access and egress.
- (18) Provision for pedestrian access, including public and private sidewalks, if applicable.
- (19) Location of outdoor storage, if any.
- (20) Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- (21) Description and method of sewage disposal and the location of such facilities.
- (22) Description of the method of securing water, location of such facilities, and approximate quantity of water required.
- (23) Location of fire lanes and other emergency zones, including fire hydrants, if required.
- (24) Location, design and construction materials of all energy generation and distribution facilities.
- (25) Location, size, design and type of construction of all proposed permanent signs.
- (26) Location, and development of all proposed buffer areas, including existing and proposed vegetative cover.
- (27) Location and identification of natural features including but not limited to surface water bodies,

wetlands, steep slopes > 15%, floodplains, significant habitats or natural communities, and habitats for rare, threatened or endangered plant or animals.

- (28) Location and design of all outdoor lighting.
- (29) General landscaping and planting schedule.
- (30) Record of applications and approval status of all necessary permits from federal, state and local agencies.
- (31) Estimated project construction schedule.
- (32) All application materials as required by the Town of White Creek Mobile Home Ordinance for mobile home and travel trailer park applications.
- (33) A short or full environmental assessment form pursuant to SEQRA 6 NYCRR Part 617.
- (34) Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference.
- (35) An application fee, as may be established by the Town Board.
- (36) If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed project could have traffic or visual impacts, the Planning Board may require the applicant to prepare and submit a traffic impact analysis, or a visual impact assessment as follows. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant.

a. Traffic Report. Traffic Reports shall include the following for the study area:

- (1) Internal traffic flow analysis.
- (2) Existing and projected average daily traffic and peak hour levels.
- (3) Existing and projected intersection levels of service (LOS).
- (4) Directional vehicular flows resulting from the proposed project.
- (5) Proposed methods to mitigate the estimated traffic impact.
- (6) Identification of any pedestrian crossing issues.
- (7) The methodology and sources used to derive existing data and estimations.

b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:

- (1) A visual assessment consistent with the NYS DEC Visual Assessment Policy.

(2) A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements).

(3) An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes.

(4) The Planning Board may require use of photo-simulations or balloon tests as part of the visual impact assessment.

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

#### **§5 Specifications for site plans.**

(1) Site map. This shall be drawn at a scale of one hundred (100) feet to one inch or larger and shall show existing topography at a contour interval of not more than five (5) feet, except that contour intervals of one or, two (2) feet may be appropriate for maps of specific site features such as grading and drainage plans, parking areas, and building locations. The site map shall show the site area and any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, etc.

(2) Development plan. This is a detailed plan for the proposed development, drawn to a scale of one hundred (100) feet to one inch or larger. The site development plan illustrates the location of all existing or proposed site improvements including drains, culverts, retaining walls, and fences; provides a description and shows the location of sewage and water facilities; shows location of all signs; the location of proposed buffer areas; the design of lighting facilities; the location and design-of all parking and unloading/ loading areas; and the location and width of all driveways, exits, and entrances.

(3) Elevations and/ or sections. Elevations and/ or sections, illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, may be required by the Planning Board. The elevations and sections shall clearly delineate the bulk and height of all

structures and other permanent structures included in the proposal, including the dimensions and height of any proposed signs.

- (4) Engineering plans. The Planning Board may require engineering plans to illustrate and describe such development aspects as road improvements, drainage systems, grading plans, public or private utility systems, sewer and water facilities and supporting data. In requesting such plans, the Planning Board shall take into account the total cost of the proposed development and the cost of preparing the plans.
- (5) Reimbursable costs. The Planning Board may engage its own consultants in the review of a site plan application and ask the applicant(s) to pay actual costs of doing so. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account may be established by the Town, funded by the applicant, to cover all costs related to the review of a site plan. The applicant shall supply the Planning Board information as may be required to calculate the dollar amount required for the escrow account. Reimbursable costs in addition include those related to review of any materials submitted as part of the environmental review pursuant to SEQRA 6 NYCRR 617.

**§6 Segmentation.** The site plan application and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

**§7 Acceptance of application.** The Planning Board shall, within thirty-two (32) days of the filing of a site plan application, or at its next regular meeting after such filing, whichever is sooner, decide whether to accept the application as complete and begin the review process, or to reject the application as incomplete. A complete application shall include either a negative declaration or a notice of completion of a draft environmental impact statement has been made by the Planning Board pursuant to SEQRA. If the Planning Board deems an application incomplete, it shall then notify the applicant(s) in writing of the deficiencies.

**§8 Referral to other agencies and boards.** After determining an application is deemed complete and at least ten (10) days before the public hearing, the Planning Board (if required by state law GML 239-n) shall refer the site plan application to the County Planning Board. The Town Planning Board may also coordinate its review (if not otherwise required by state law) or consult with federal, state and local agencies and boards. The County Planning Board shall have no more than 30 days to review and make a decision on the site plan.

**§9 Public hearing.** The Planning Board shall conduct a public hearing on site plan applications within sixty-two (62) days after it has determined an application to be complete. It shall advertise such hearing at least ten (10) days and not more than thirty (30) days in advance of the public hearing in the Town's official newspaper. The Planning Board shall also mail a notice of the hearing to the applicant(s) at least ten (10) days before the hearing, and if the project site adjoins a neighboring municipality, to the

appropriate Town or Village Clerk. Further, a notice of the public hearing shall be mailed, at the applicants' expense, to all farmland landowners identified on the Agricultural Data Statement and all adjacent landowners.

**§10 Decision.** Within sixty-two (62) days of the close of the public hearing, the Planning Board shall render a decision to approve, approve with conditions or modifications, or disapprove the site plan application. The Planning Board shall comply with the State Environmental Quality Review Act and Section 239-m of the General Municipal Law (if applicable) before rendering its decision.

- (1) Required Findings for Site Plan Review Approval. The Planning Board must find that the site plan meets to the maximum extent practicable the intent and purposes set forth in Article A and the design objectives set forth in Article D of this local law. Additionally, pursuant to SEQRA, the Planning Board must find that the development proposed by the site plan will not have a potentially significant adverse impact on the environment, or issue findings required by Section 617.11 of Title 6 of the Official Compilation of Codes, Rules and Regulation of the State of New York (SEQRA regulations).
- (2) Procedure for approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and file a copy of the site plan within 5 business days with a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant(s) by certified mail.
- (3) Procedure for approval with modifications. The Planning Board may approve the site plan and require that specific modifications be made. A copy of the written statement shall be mailed to the applicant(s) by certified mail. The Planning Board shall endorse its approval on a copy of the site plan containing the required modifications and file the site plan and a written statement of approval with the town clerk within 5 business days.
- (4) Procedure for disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed within 5 business days with the town clerk and a copy thereof mailed to the applicant(s) with a letter stating the Planning Board's reasons for disapproval.
- (5) Default approval. If the Planning Board fails to render a decision within sixty-two (62) days of the close of the public hearing or within the time agreed upon between the applicant(s) and the Planning Board, such failure shall constitute approval of the site plan as submitted or last amended.

**§11 Extension of time to render decision.** Any time limitation in this law may be extended by mutual consent of the applicant(s) and the Planning Board.

**§12 Integration of site plan review procedures with other laws.** Whenever a proposed land use activity that is the subject of site plan review hereunder also requires any other type of land use approval, the Planning Board shall integrate site plan review with the procedural and application requirements of such other land use approval.

**§13 Revocation.** Any approval of a site plan shall expire after one (1) year from the date that such

approval was filed with the Town Clerk unless the applicant shall have obtained all other necessary permits and approvals and commenced, and substantially proceeded with, construction of the project in full conformity with the approved site plan.

## **Article D**

### **Design Objectives**

**§1 General objectives.** Sites to be developed shall be of such character that they can be safely used for building purposes without danger to the public health or safety, or peril from fire, flood, or other causes. New development shall be compatible with the rural, small town character of the community.

**§2 General considerations.** The Planning Board's review of site plans shall include (as applicable) the following:

- (1) Location, arrangement, size, design and general site compatibility of structures, lighting and signs. Signs shall generally be no larger than 24 square feet and no higher than 12 feet, but the Planning Board can establish a size and height appropriate in keeping with the character of the neighborhood.
- (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (3) Location, arrangement, appearance and sufficiency of off-street parking. Parking should be placed to the side or rear of a building.
- (4) Adequacy of stormwater and drainage facilities.
- (5) Adequacy of water supply and sewage disposal facilities.
- (6) Adequacy of site design for fire protection and emergency access.
- (7) Adequacy and arrangement of pedestrian access.
- (8) Compatibility with and protection of adjacent uses, especially agricultural uses.
- (9) Consideration of aesthetics and the Towns' rural and small town community character in the project design.
- (10) Reduction or elimination of potential nuisances such as noise, smoke and glare.
- (11) Scenic views.

**§3 Natural resource considerations.** In general, sites to be developed should avoid areas where the following conditions are present:

- (1) Slopes greater than fifteen percent (15%). Disturbance of slopes > 25% shall be minimized.
- (2) Areas with shallow bedrock or areas with frequent rock outcrops.
- (3) Areas of high groundwater (seasonal or permanent) and surface water bodies including streams and State and federal regulated wetlands.
- (4) Groundwater resources that are used for potable water.
- (5) Critical or rare habitats or those identified as habitats for threatened or endangered species that may be present.
- (6) Flood hazard areas.

**§4 Rural design guidelines.** To help insure that new development is compatible with the rural, small town character of the Town, the Planning Board shall apply the following design guidelines to its review of site plans:

- (1) Whenever feasible, retain and re-use old farm roads and country lanes instead of constructing new roads and driveways.
- (2) Whenever feasible, new structures should be placed at the edges of fields or in cleared areas next to fields, instead of in the middle of fields. Septic systems and leach fields, however, may be located in fields.
- (3) Use existing vegetation and topography to buffer and screen structures. Minimize tree cutting outside of the building envelope and surrounding area immediate to the structure.
- (4) Minimize clearing of vegetation.
- (5) Whenever feasible, situate parking lots to the side and rear of structures.
- (6) Lighting should be designed and arranged so as to minimize glare on adjacent properties and onto public places. All lighting shall use down-facing enclosed lighting fixtures. Pole mounted lights shall not be higher than 18 feet.
- (7) Structures should be compatible with neighborhood character and the overall rural character of White Creek:
  - a. Relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential use shall be reviewed with regard to minimizing the impact of the non-residential development on such use.
  - b. Individual buildings shall relate to each other, and to traditional structures in the

surrounding area, in lot placement, scale, height, build-to lines, and connections to harmonize visually and physically with the traditional character of the area.

- c. Buildings shall have facades that honor traditional styles and patterns found in the area. The Planning Board shall evaluate the impact to, and compatibility of, these design features with existing neighborhoods.
- d. When non-residential projects involve the renovation/reuse of an existing building, the traditional character and architectural elements shall be maintained as may be required by the Planning Board.
- e. There should be compatibility with active agricultural activities.

**§5 Site access standards.** Site plan approval shall be conditional upon the applicant(s) obtaining any necessary curb-cut permits. In addition, site plans shall comply (if applicable) with the following site access guidelines:

- (1) Access drives shall be constructed and maintained so as to provide for year-round access.
- (2) In cases where sites have frontage on more than one road, the principal point of access shall be from the secondary road (whenever feasible).
- (3) Driveways shall be combined (whenever feasible) to minimize the number of access points onto roadways.
- (4) There shall be a maximum of two driveway entrances per developed lot.
- (5) No driveway centerline shall intersect a streetline less than seventy (70) feet from the intersection of any two (2) roadways.
- (6) Driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.

## **§6 Required Improvements.**

- (1) Guarantees. A certificate of occupancy shall only be issued when all improvements shown on the site plan are installed in accordance with the site plan approval, or when required by the Planning Board, a performance guarantee has been provided by the applicant(s) for uncompleted improvements. Such guarantees may include one or a combination of the following:
  - (2) A bond executed by a surety company equal to the cost of such improvements. Any such bond shall require the approval of the Town Board in consultation with the town attorney as to form, sufficiency, manner of execution and surety.
  - (3) A certified check in a sufficient amount up to the cost of the improvements. The certified check

shall be placed in an escrow account established by the Town for this purpose.

- (4) Schedule and approval of improvements. The Planning Board shall specify the time frame for completion of improvements in its decision on the application. When a certified check or performance bond is issued, the Town and the applicant(s) shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation. Each cost as listed shall be repaid to the applicant(s) upon completion and approval after inspection by the Town of the improvement. The Planning Board shall send a letter to the applicant(s) that provides sufficient evidence for the release by the Town of the portion of the performance bond or certified check as designated in the contract to cover the cost of the completed improvement.

## **Article E**

### **Abbreviated Site Plan Review for Residences**

**§1. Applicability for an Abbreviated Site Plan Review.** Any single family or two-family residence, including mobile homes shall meet all procedures and requirements for an abbreviated site plan review.

### **§2. Application Requirements, Procedures and Time Frames for Abbreviated Site Plan Review.**

For all building permit applications for single-family or two-family residences, including mobile homes, the Code Enforcement Officer shall refer the application to the Planning Board for an abbreviated site plan review as per this section. Any replacement of a residence, including mobile homes that are placed in the exact same location on the lot and with the same building footprint as the original are exempt from the abbreviated site review process, but shall still require a building permit prior to construction.

Residential accessory uses, or temporary housing for the owner of a property when under construction, shall not require abbreviated site plan review, but shall require a building permit prior to construction.

The applicant shall provide seven (7) copies of the following information to the Planning Board at least ten (10) days prior to a regularly scheduled Planning Board meeting. As part of this application, the Planning Board shall accept printed maps included in the Town of White Creek Comprehensive Plan in which the parcel in question, and its natural resources, are clearly shown. A surveyed plan is not required. Applications for abbreviated site plan do not require SEQR or referral to Washington County.

The following documents and/or information shall be required, unless waived by the Planning Board:

- (1) An area map showing the general location of the parcel under consideration for site plan review.
- (2) A statement and rough sketch showing the locations and dimensions of the building envelope

which includes principal and accessory structures, driveways and curb cut.

- (3) A description and map of existing conditions and general anticipated changes in the existing topography, natural features, and where applicable, wetlands, streams, flood hazards and slopes over fifteen (15%) and also showing:
  - (a) The general location of where the dwelling is proposed in relation to natural features on the property including any setbacks that may be required by the Town of White Creek.
  - (b) The location of proposed water well, septic tank and the primary, and secondary (if required), leach field.
  - (c) The location of proposed utilities.
- (4) Identification of whether the parcel is in a New York State certified Agricultural District, and whether a farm operation is taking place within five hundred (500) feet of the parcel.
- (5) Whether there is likely to be a disturbance of more than one (1) acre including grading and clearing.
- (6) Any existing easements or rights-of-way.
- (7) Applications for abbreviated site plan review for mobile homes. The application shall also include identification if it is a single or double wide structure, the overall size and certification that the structure meets all New York State and federal standards for manufactured homes. All such structures shall meet all standards set by the New York State Uniform Building and Fire Code for manufactured housing, including but not limited to skirting, use of fire resistant materials, and property pads and mounting.

### **§3. Planning Board Action on Abbreviated Site Plan**

The Planning Board shall, at the first regularly scheduled meeting held after submission of the abbreviated site plan application, begin the review process. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating application deficiencies. No abbreviated site plan application shall be deemed complete until the application form, fee if required by the Town Board, and site plan information described in this section have been accepted by the Planning Board.

Once a complete application has been received, the Planning Board shall conduct its abbreviated review and render a decision in one meeting unless an extended time frame is mutually agreed upon pursuant to this Article. If the application is deemed complete, the Planning Board shall conduct its review and render a decision on the abbreviated site plan at the first regularly scheduled meeting held after submission of the application to the Planning Board. The Planning Board's action shall be in the form of a resolution stating whether the abbreviated site plan is approved, disapproved or approved conditionally with modifications. Any modification required by the Planning Board shall be considered a condition for issuance of a building permit. If the abbreviated site plan is disapproved, the Planning Board's resolution will contain the reasons for such findings. In such a case, the Planning Board may

recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

- (1) Approval. Upon approval of the abbreviated site plan and payment by the applicant of all fees due to the Town, if any, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file a copy of the approved resolution approving the abbreviated site plan with the Town Clerk and the Code Enforcement Officer. A copy of the written statement of approval shall be mailed to the applicant. Upon approval of the abbreviated site plan, the applicant shall be eligible for applying for a building permit. The Code Enforcement Officer shall inspect all pads, footings, foundations, potable water and wells, septic systems, and electrical systems and shall be certified to be in compliance with all requirements before a Certificate of Occupancy may be issued.
- (2) Approval with Modifications. The Planning Board may approve the abbreviated site plan and require that specific modifications or conditions be made. A copy of the resolution of approval containing the modifications required by the Planning Board shall be mailed to the applicant and filed with the Town Clerk and the Code Enforcement Officer. The Code Enforcement Officer shall not issue a building permit until the modified abbreviated site plan has been reviewed and certified by the Code Enforcement Officer that the plan reflects modifications as required by the Planning Board.
- (3) Disapproval. The Planning Board shall make a resolution if its decision is to disapprove the application. The resolution shall set forth the reasons for the Board's decision not to approve the application. Upon disapproval of the site plan, the Planning Board shall, within five (5) business days, file the resolution with the Town Clerk and Code Enforcement Officer. No building permit shall be issued when an abbreviated site plan has been disapproved.

**§4. Extension of Time.** The time period in which the Planning Board must render its decision on the abbreviated site plan may be extended only upon mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the one-meeting time period specified or other time frame agreed upon between the applicant and Board, shall constitute Planning Board approval of the site plan as submitted or last amended, and shall be deemed automatic approval. An applicant's failure to follow through within the specified time period on submitting application requirements shall not be considered a failure of the Planning Board and thus shall not be deemed automatic approval.

## **§5. Criteria for Review of Abbreviated Site Plan for Single-Family and Two-Family Residences**

- (1) In addition to any lot layout or design criteria required by the Town of White Creek Subdivision Regulations, the following siting criteria shall be met for all residential structures:
  - a) The house and other land disturbances (building envelope) shall be sited to preserve to the maximum extent feasible, significant natural features on the site. These shall include, but are not limited to, preservation of natural contours, water bodies, state and federally regulated wetlands, rare, threatened or endangered wildlife habitats, and historic locations included on the State and National Historic Register.

- b) The location of the building envelope shall be such that pollution of air, streams, ponds, lakes, soils and groundwater supplies is avoided to the maximum extent practicable. The Building envelope shall also be sited to avoid disturbances within 100 feet of streams so as to maintain those natural features to the maximum extent practical.
- c) All driveways shall be consistent with the Town of White Creek Highway Specifications. No negative impacts on the existing street due to drainage or sight distances shall occur.
- d) The proposed development shall provide proper surface water management that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical.
- e) The location of the building envelope ensures adequate water supply and sewage disposal.
- f) Siting of the building envelope and conversion of agricultural land to residential use shall be compatible with remaining active agricultural activities so the new use does not interfere with agriculture.
- g) If feasible, the building envelope should be sited along the edges of open fields or in wooded areas in order to preserve the ability to farm.
- h) Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways to minimize clearing and disruption of the landscape. Driveways shall be adequate for emergency services to access the site.
- i) The following site standards shall be required for all residential lots:
  - 1. All houses shall be set back a minimum of fifty (50) feet back from the center of the road or highway.
  - 2. There shall be a minimum of fifty (50) feet from an adjoining property line.
  - 3. Other structures related to the home must also be fifty (50) feet from the center of the road and fifty (50) feet from an adjoining property line.

## **Article F**

### **Administration**

**§1 Compliance.** The Code Enforcement Officer is authorized to enforce this local law. They shall not issue a building permit or certificate of occupancy for any structures requiring site plan approval by this law, except upon authorization by and in conformity with an approved site plan or abbreviated site plan. The inspector shall periodically make onsite reviews of the progress of site development, and insure through physical inspection that the site is in compliance with the provisions, standards, and requirements of this law.

**§2 Code Enforcement Officer.** The Town Board shall appoint a Code Enforcement Officer to carry out the duties assigned by this law. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, and shall coordinate his or her activities with the Planning Board and other agencies. The Code Enforcement Officer will, in a timely fashion make a periodic written report to the Town Board on all inspections, permits, and compliance issues. The Code Enforcement Officer shall be authorized to issue a Certificate to Occupy when compliance is determined and shall have the right to enforce all the provisions of this law.

### **§3 Enforcement.**

- (1) Civil fine. Any person, partnership, association, corporation or other legal entity who violates the requirements of this 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 three hundred and fifty dollars (\$350.00) to be recovered by the Town in a civil action pursuant to NYS Town Law 268. Every such person or entity shall be deemed guilty of a separate offense for each week such violation continues.
- (2) Injunction. In addition to the penalties provided above, the Town may maintain an action or proceeding to compel compliance with or to restrain by injunction the violation of this law.

**§4 Amendments.** The Town Board may amend this law upon petition or its own motion. All proposed amendments to this local law not originating with the Planning Board shall be referred to it by the Town Board for a report and recommendation prior to adoption. If the Town Board does not receive a written recommendation from the Planning Board within 45 days of referral, the Town Board shall consider that as an affirmative recommendation and may proceed with adoption of the amendment.

**§5 Further implementation.** The Planning Board may adopt an application form, application checklists, and bylaws for the conduct of its meetings.

**§6. Compliance with Approval.** No person shall undertake any land use or development for which a site plan or abbreviated site plan approval is required until a valid site plan approval has been issued by the Planning Board and a building permit has been issued by the Code Enforcement Officer. A building permit will be issued only when the Code Enforcement Officer has determined that all requirements of this law, and of all other applicable Federal, State, County and local laws and regulations are satisfied. Where an approved site plan or abbreviated site plan is required under this law, no permit or certificate of occupancy shall be issued by the Code Enforcement Officer except upon authorization by, and in conformity with, an approved site plan or abbreviated site plan.

**§7 Relief from Decisions.** The applicant for a site plan approval that has been denied a permit by the Code Enforcement Officer may appeal for a use or area variance by filing a Notice of Appeal with the Town of White Creek Board of Appeals pursuant to the Town of White Creek Board of Appeals Local Law as exists or amended. Any person aggrieved by a decision of the Code Enforcement Officer, Planning Board or Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the final decision by the Planning Board is filed in the office of the Town Clerk. Such proceeding shall be governed by the specific provisions of New York Civil Practice Law and Rules Article 78.

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**§8 Severability.** The provisions of this local law are severable. If any article, section, paragraph or provision of this law shall be ruled invalid, such invalidity shall apply only to the article, section, paragraph, or provision(s) judged to be invalid and the remainder of the law shall remain valid and effective.