

Chapter 125

FIRE PREVENTION AND BUILDING CONSTRUCTION

§ 125-1. Administration and enforcement.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 6-13-1983 as L.L. No. 2-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings — See Ch. 87.
Flood damage prevention — See Ch. 129.
Property maintenance — See Ch. 187.
Solid waste — See Ch. 214.
Streets and sidewalks — See Ch. 219.

§ 125-1. Administration and enforcement.

- A. New York State Executive Law § 381, Subdivision 2, requires that every local government shall administer and enforce the Uniform Fire Prevention and Building Code on or after the first day of January 1984.
- B. Further provisions of Executive Law § 381, Subdivision 2, allow units of local government to provide that they will not enforce the Uniform Code.
- C. The Village of Sherburne, New York, hereby declares that it will not enforce the Uniform Code on and after the first day of January 1984.¹

¹ Editor's Note: The Uniform Fire Prevention and Building Code is enforced by Chenango County.

Chapter 129

FLOOD DAMAGE PREVENTION

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[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 10-2007. Amendments noted where applicable.]

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

§ 129-1. Findings.

The Board of Trustees of the Village of Sherburne finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Sherburne and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

§ 129-2. Purpose.

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 129-3. Objectives.

The objectives of this local law are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To provide that developers are notified that property is in an area of special flood hazard; and,

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 129-4. Word usage; definitions.

A. Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL -- A request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

AREA OF SHALLOW FLOODING -- A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD -- The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE,

or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD -- The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT -- That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING -- see "Structure"

CELLAR -- The same meaning as "Basement".

CRAWL SPACE -- An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING -- A non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water

and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY -- The Federal agency that administers the National Flood Insurance Program.

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD or FLOODING -- also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) -- an official map of the community published by the Federal Emergency Management Agency as part of a riverine

community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY -- An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) -- An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) -- An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY -- See "flood elevation study".

FLOODPLAIN or "FLOOD-PRONE AREA" -- Any land area susceptible to being inundated by water from any source (see definition of "Flooding").

FLOODPROOFING -- Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY -- The same meaning as "Regulatory Floodway".

FUNCTIONALLY DEPENDENT USE -- A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility

necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE -- The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE -- Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR -- The person appointed by the

community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR -- The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

MANUFACTURED HOME PARK OR SUBDIVISION -- A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL -- For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME -- The same meaning as "Manufactured home".

NEW CONSTRUCTION -- Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

ONE-HUNDRED YEAR FLOOD or 100-YEAR FLOOD -- The same meaning as "Base Flood".

PRINCIPALLY ABOVE GROUND -- At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE -- A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

START OF CONSTRUCTION -- The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE -- A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE -- Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -- Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

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VARIANCE -- A grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

VIOLATION -- The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

§ 129-5. Applicability.

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Sherburne, Chenango County.

§ 129-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard for the Village of Sherburne, Community Number 360164, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

36017C0084E, 36017C0092E, 36017C0105E,
36017C0111E

Whose effective date is, November 26, 2010, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Chenango County, New York, All Jurisdictions" dated November 26, 2010.

The above documents are hereby adopted and declared to be

a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

15 West State Street
Sherburne, New York 13460.

§ 129-7. Interpretation; conflict with other laws.

- A. This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 129-7.1 Severability.

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

§ 129-8. Penalties for non-compliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this

local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250) or imprisoned for not more than fifteen (15) days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Sherburne from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§ 129-9. Warning and disclaimer of liability.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Sherburne, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

§ 129-10. Designation of local administrator.

The Chenango County Health Department Division of Code Enforcement is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

§ 129-11. The floodplain and development permit.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

A. Fees

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 100.00. In addition, the applicant shall be responsible for reimbursing the Village of Sherburne for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

B. The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the

lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood-proofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

§ 129-12. Duties and responsibilities of the local administrator

Duties of the Local Administrator shall include, but not be limited to the following:

- A. Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet

the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

- (a) If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

- B. Use of other flood data. When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

- C. When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.
- D. Alteration of watercourses. The local administrator shall:
- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
 - (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- E. Construction Stage.
- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood-proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood-proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

F. Stop-work orders

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

G. Inspections.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

H. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be

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unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

§ 129-12.1 Information to be retained.

The Local Administrator shall retain and make available for inspection, copies of the following:

- A. Floodplain development permits and certificates of compliance;
- B. Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- C. Flood-proofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;

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- D. Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- E. Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

§ 129-13. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

A. Anchoring

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully

enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- (b) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the

Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; an
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

E. Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (b) The Village of Sherburne agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Sherburne for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Sherburne for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (b) The Village of Sherburne agrees to apply to the

§ 129-13 FLOOD DAMAGE PREVENTION § 129-14

Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Sherburne for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Sherburne for all costs related to the final map revisions.

§ 129-14. Specific standards.

Elevation.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at

least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes

B. Non--residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (b) Be flood-proofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (b) Together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be flood-proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood-proofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be flood-proofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 129-15. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (1) Be on site fewer than 180 consecutive days,
- (2) Be fully licensed and ready for highway use, or
- (3) Meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (1) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that

§ 129-15 FLOOD DAMAGE PREVENTION § 129-16

are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

- (2) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

§ 129-16. Board of Appeals.

- A. The Board of Appeals as established by the Village of Sherburne shall hear and decide appeals and requests for variances from the requirements of this local law.
- B. The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- C. Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its

contents to flood damage and the effect of such damage on the individual owner;

- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

E. Upon consideration of the factors of Section 6.1(4) and the

§ 129-16 FLOOD DAMAGE PREVENTION § 129-17

purposes of this local law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 129-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.l(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

§ 129-17 FLOOD DAMAGE PREVENTION § 129-17

- (1) The criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

§ 129-17 FLOOD DAMAGE PREVENTION § 129-17

- (2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this _____ day of
_____, 20__ by the _____ of the
_____, _____ County, New
York, to be effective _____.

SEAL

ATTEST _____ CLERK

Attachment A
MODEL FLOODPLAIN DEVELOPMENT
APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS

(APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE)

_____ DATE _____

SECTION 2: PROPOSED DEVELOPMENT

(To be completed by APPLICANT)

_____ NAME _____

_____ ADDRESS _____

_____ TELEPHONE _____

APPLICANT

BUILDER

ENGINEER

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

APPLICATION # _____

PAGE 2 of 4

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

<u>ACTIVITY</u>	<u>STRUCTURE TYPE</u>
G New Structure	G Residential (1-4 Family)
G Addition	G Residential (More than 4 Family)
G Alteration	G Non-residential (Floodproofing? G Yes)
G Relocation	G Combined Use (Residential & Commercial)
G Demolition	G Manufactured (Mobile) Home
G Replacement	(In Manufactured Home Park? G Yes G No)

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- G Fill G Mining G Drilling G Grading
- G Excavation (Except for Structural Development Checked Above)
- G Watercourse Alteration (Including Dredging and Channel Modifications)
- G Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
- G Road, Street or Bridge Construction
- G Subdivision (New or Expansion)
- G Individual Water or Sewer System
- G Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION
(To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- G The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.

G The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____ Ft. G NGVD 1929/ G NAVD 1988 (MSL)
G Unavailable

G See Section 4 for additional instructions for development that is or
may be in a flood prone area.

SIGNED _____ DATE

SECTION 4: ADDITIONAL INFORMATION REQUIRED
(To be completed by LOCAL ADMINISTRATOR)

The applicant must submit the documents checked below before the application can be processed:

G A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.

G Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters.

Other _____

G Elevation Certificate

G Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).

G Plans showing the watercourse location, proposed relocations, Floodway location.

G Topographic information showing existing and proposed grades, location of all proposed fill.

G Top of new fill elevation _____ Ft. G NGVD 1929/
G NAVD 1988 (MSL)

G PE Certification of Soil Compaction

G Flood-proofing protection level (non-residential only) _____ G
NGVD 1929/
G NAVD 1988 (MSL)

For flood-proofed structures, applicant must attach certification from registered engineer or architect.

G Other: _____

SECTION 5: PERMIT DETERMINATION
(To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. G Is
B. G Is not
in conformance with provisions of Local Law # _____,
(yr) _____. This permit is hereby issued subject to the conditions
attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Develop-
ment Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written
summary of deficiencies. Applicant may revise and resubmit an ap-
plication to the Local Administrator or may request a hearing from the
Board of Appeals.

Expiration Date: _____

APPLICATION # _____

APPEALS: Appealed to Board of Appeals? G Yes G No
Hearing date: _____
Appeals Board Decision --- Approved? G Yes G No

Conditions: _____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is:
FT. G NGVD 1929/
G NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31
2. Actual (As-Built) Elevation of floodproofing protection is
FT. G NGVD 1929/ G NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The LOCAL ADMINISTRATOR will complete this section as applicable based on inspection of the project to ensure compliance with the commu-

community's local law for flood damage prevention.

INSPECTIONS:

DATE _____ BY _____ DEFICIENCIES? G YES G NO

DATE _____ BY _____ DEFICIENCIES? G YES G NO

DATE _____ BY _____ DEFICIENCIES? G YES G NO

SECTION 8: CERTIFICATE OF COMPLIANCE

(To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____

BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD
HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at:

Owner: _____

Owner's Address: _____

Permit No. _____ Permit Date: _____

Check One:

- New Building
 Existing Building
 Fill
 Other:

The Local Floodplain Administrator is to complete
a. or b. below:

a. Compliance is hereby certified with the requirements of
Local Law No.____, (yr) ____.

Signed:_____ Dated: _____

b. Compliance is hereby certified with the requirements of
Local Law No.____, (yr) ____, as modified by variance
no. _____, dated _____.

Signed:_____ Dated: _____

§ 136-1

GAMES OF CHANCE

§ 136-2

Chapter 136

GAMES OF CHANCE

§ 136-1. Title.

§ 136-2. Legislative intent.

§ 136-3. Legislative authority.

§ 136-4. Definitions.

§ 136-5. Incorporation of statutory provisions.

§ 136-6. License and compliance required.

§ 136-7. Games on Sundays and holidays.

§ 136-8. Enforcement.

§ 136-9. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 1-13-1992 as L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 79.

Circuses, carnivals and exhibitions — See Ch. 97.

Noise — See Ch. 168.

§ 136-1. Title.

This chapter shall be known as “Chapter 136, Games of Chance, of the Village of Sherburne, New York.”

§ 136-2. Legislative intent.

A. The New York State Legislature has declared, in adopting Article 9-A of the General Municipal Law,

entitled "Local Option for Conduct of Games of Chance by Certain Organizations," that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings where the beneficiaries are undetermined is in the public interest;

- B. The Legislature of the State of New York has declared it to be the policy of said Legislature that all phases of the supervision, licensing and regulations of games of chance and the conduct of games of chance should be closely controlled and the laws and regulations pertaining thereto should be strictly construed for the purpose of discouraging commercialism in such games and to ensure a maximum availability of the net proceeds of games of chance exclusively for the application of worthy causes; and
- C. The Village Board of the Village of Sherburne deems it in the best interests of the citizens of the Village of Sherburne that said games of chance should be permitted in the Village of Sherburne as authorized by Article 9-A of the General Municipal Law.

§ 136-3. Legislative authority.¹

This chapter is enacted pursuant to the authority granted in Article 9-A of the General Municipal Law.

§ 136-4. Definitions.

- A. As used in this chapter, the following terms shall have the meanings indicated:

MUNICIPALITY — The Village of Sherburne.

VILLAGE — The Village of Sherburne.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. Other terms. All other terms used in this chapter shall have, for the purpose of this chapter, the meanings respectively ascribed to them by § 186 of the General Municipal Law.

§ 136-5. Incorporation of statutory provisions.

This chapter shall be deemed to include all of the provisions of Article 9-A of the General Municipal Law and the rules and regulations of the State of New York Racing and Wagering Board adopted pursuant to said Article 9-A, except as otherwise provided in this chapter, and all amendments to the provisions of said Article 9-A or said rules and regulations are hereby deemed to be incorporated into this chapter to the extent that such amendments are otherwise applicable to games of chance authorized under this chapter.

§ 136-6. License and compliance required.

Authorized organizations may, upon the obtainment of a license from the Village Clerk, conduct games of chance within the Village of Sherburne as provided in Article 9-A of the General Municipal Law and as provided further in this chapter. Such games of chance shall be conducted in accordance with Article 9-A of the General Municipal Law and with the rules and regulations of the New York State Racing and Wagering Board and this chapter.

§ 136-7. Games on Sundays and holidays.

No games of chance will be conducted on Sunday, Christmas Day and New Year's Day.

§ 136-8. Enforcement.

The Police Department of the Village of Sherburne shall have all the powers and duties set forth in § 194 of the General Municipal Law.

§ 136-9. When effective.

This chapter shall take effect upon approval by the electors of the Village of Sherburne at a village election to be held on March 17, 1992, and filing in the office of the Secretary of State.²

² Editor's Note: Such local law was submitted to the people by reason of a mandatory referendum and received the affirmative vote of a majority of the qualified electors voting thereon at the general election held on March 17, 1992, in accordance with the applicable provisions of law.

§ 140-1

GASOLINE STATIONS

§ 140-2

Chapter 140

GASOLINE STATIONS

§ 140-1. Gasoline pumps.

§ 140-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 4-26-1948 as Sec. 44 of the 1948 Compilation. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 219.

Vehicles and traffic — See Ch. 239.

§ 140-1. Gasoline pumps.

No gasoline pumps shall hereafter be placed in the street at the curb in the Village of Sherburne and shall be so located when cars are being filled they shall be entirely off the street.

§ 140-2. Penalties for offenses.¹

Any violation of this chapter shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 150-1

JUNKYARDS

§ 150-2

Chapter 150

JUNKYARDS

§ 150-1. Junkyards prohibited.

§ 150-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 4-26-1948 as Article VI, Sec. 43, of the 1948 Compilation. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 158.

Solid waste — See Ch. 214.

§ 150-1. Junkyards prohibited.

No person, firm or corporation shall maintain within the corporate limits of the Village of Sherburne a junkyard or auto graveyard.

§ 150-2. Penalties for offenses.¹

Any violation of this chapter shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

LITTERING

Chapter 158

LITTERING

- § 158-1. Definitions.
- § 158-2. Streets, sidewalks and public places.
- § 158-3. Throwing litter from vehicles.
- § 158-4. Loads on and mud from trucks and other vehicles.
- § 158-5. Parks.
- § 158-6. Private property.
- § 158-7. Maintenance of private property.
- § 158-8. Vacant lots.
- § 158-9. Clearing open private property by village.
- § 158-10. Posting signs.
- § 158-11. Political campaign and election advertising.
- § 158-12. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 7-11-1983 as L.L. No. 3-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 150.
Property maintenance — See Ch. 187.
Solid waste — See Ch. 214.
Streets and sidewalks — See Ch. 219.

§ 158-1. Definitions.¹

As used in this chapter, the following terms shall have the meanings indicated:

LITTER — Disorderly accumulation of objects, especially carelessly discarded waste materials or scraps.

§ 158-2. Streets, sidewalks and public places.²

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the village except in public receptacles, in authorized private receptacles for collection or in areas approved by the village for dumping of refuse.

§ 158-3. Throwing litter from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the village or upon private property.

§ 158-4. Loads on and mud from trucks and other vehicles.

No person shall drive or move any truck or other vehicle within the village unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the village, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 158-5. Parks.

No person shall throw or deposit litter in any park within the village, except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and shall be properly disposed of elsewhere, as provided herein.

§ 158-6. Private property.

No person shall throw or deposit litter on any occupied private property within the village, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon the street or other public place or upon any private property.

§ 158-7. Maintenance of private property.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit storage of litter in authorized receptacles for collection.

§ 158-8. Vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the village, whether owned by such person or not.

§ 158-9. Clearing open private property by village.

- A. Notice to remove. The Village Police Department is hereby authorized and empowered to notify the owner of

any open or vacant private property within the village or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to said owner at their last known address.

- B. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within ten (10) days after receipt of written notice provided for in Subsection A above or within fifteen (15) days after the date of such notice, in the event that the same is returned to the Village Post Office Department because of its inability to make delivery thereof, provided that the same was properly addressed to the last known address of such owner or agent, the Village Superintendent is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the village.
- C. Charge included in tax bill. When the village has effected the removal of such dangerous litter or has paid for its removal, the actual costs thereof, plus accrued interest at the rate of nine percent (9%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the village, and said charge shall be due and payable by said owner at time of payment of such bill.

§ 158-10. Posting signs.

The Village Superintendent, as authorized by the Board of Trustees, shall be empowered to post appropriate signs stating the prohibition against littering.

§ 158-11. Political campaign and election advertising.

It is hereby specifically prohibited to post political campaign and election advertising within the federal, state, or village right-of-way along the highways and the roads of the village.

§ 158-12. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.