

§ 247-1

WATER

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Chapter 247

WATER

**ARTICLE I
Conservation**

- § 247-1. **Fire hydrants.**
- § 247-2. **Limitation of use.**
- § 247-3. **Complaints.**
- § 247-4. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne: Art. I, 5-11-1992 as L.L. No. 3-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 40.
Sewers — See Ch. 202.
Streets and sidewalks — See Ch. 219.

**ARTICLE I
Conservation**

[Adopted 5-11-1992 as L.L. No. 3-1992]

§ 247-1. Fire hydrants.¹

No person or persons other than those designated and authorized by the Village Utilities Manager shall open any fire hydrant, attempt to draw water from it or in any manner damage or tamper with it. No person shall place any obstruction that will prevent free access to any fire hydrant. Use of village water by the Sherburne Fire Department shall be

¹ Editor's Note: See also § 219-6.

subject to the authorization and authority of the Village Utilities Manager, which is presumed to have been granted with respect to all firematic exercises, drills or activities.

§ 247-2. Limitation of use.

Whenever the Village Board of Trustees, acting on the recommendation of the Village Utilities Manager, determines that a water shortage exists, the Village Board may adopt an order and publish notice thereof, effective upon its publication in the official newspaper of the Village, forbidding the use of village water for the watering of lawns and gardens as well as other nonessential uses prohibited by such order. The order shall remain in force until notice of the lifting thereof shall be published in the official newspaper.

§ 247-3. Complaints.

- A. Any person who observes the improper or forbidden use of the village water in violation of this Article may file a complaint under oath with the Village Police or any other law enforcement agency, specifying the nature of the violation, the date thereof, a description of the improper or forbidden use and the name of the persons and the residence committing said violation and the address of the party committing said violation.
- B. Upon receipt by the law enforcement agency of any such complaint, it shall summon the alleged violator to appear in the Village Court to answer such charges.

§ 247-4. Penalties for offenses.²

Upon conviction, a violation under this Article shall be deemed an offense and be punishable by a maximum fine of two

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

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hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

APPENDIX

§ A1-1

ADULT BUSINESSES

§ A1-2

Appendix 1

ADULT BUSINESSES

§ A1-1. **Purpose.**

§ A1-2. **Definitions.**

§ A1-3. **Restrictions.**

§ A1-4. **Permit.**

§ A1-5. **Approval, denial, suspension or revocation of permit.**

§ A1-6. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 2-5-2007. Amendments noted where applicable.]

§ A1-1. Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of the residents of the Village of Sherburne; to provide standards for the safe provision of adult businesses; and to minimize any potential adverse effects which may result from adult businesses by requiring the careful siting of such businesses.

§ A1-2. Definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows: ADULT BOOKSTORE, ADULT VIDEO STORE and ADULT NOVELTY STORE – A public or private establishment having as a substantial or significant portion of its stock-in-trade books, magazines, marital aids or novelties, film for sale/rent or viewing on premises by use of motion-picture devices or any other coin-operated means, and other periodicals or materials which are

distinguished or characterized by their emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas; or an establishment with a segment or section devoted to the sale, rental or display of such material.

ADULT BUSINESS -- For the purpose of this chapter, this definition shall include, but shall not be limited to, adult bookstores, adult video stores, adult novelty stores, adult entertainment cabarets, adult mini-motion-picture theaters, adult motion-picture theaters, and other similar sexually oriented public or private establishments.

ADULT ENTERTAINMENT CABARET -- A public or private establishment which is licensed to serve food and/or alcoholic and/or nonalcoholic beverages, and which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

ADULT MINI-MOTION-PICTURE THEATER -- A public or private establishment in an enclosed building with a capacity of fewer than five (5) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas for observation by patrons therein.

ADULT MOTION-PICTURE THEATER -- A public or private establishment in an enclosed building with a capacity of five (5) or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas for observation by patrons therein.

APPLICANT -- In the case of an individual, the person applying for a permit; in the case of an association or partnership, each of the associates or partners; in the case of a corporation, each of the officers, and the directors and each stockholder owning more than 10% of the outstanding shares of the corporation; in the case of a limited-liability company, each of the members and managers of the limited-liability company.

PERSON -- Any person, firm, partnership, corporation, association, limited-liability company or other legal entity, acting individually or jointly.

SPECIFIC ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region, or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

§ A1-3. Restrictions.

All adult businesses shall be subject to the following restrictions:

- A. Adult businesses shall be permitted only in an Industrial area.
- B. No adult business shall be allowed to occur within 500 feet of the property boundary of another existing adult business.
- C. No building or structure associated with an adult business shall be located within 500 feet of any boundary of Residential area within 50 feet of any boundary of an Industrial area. No building

or structure, etc. shall be located within a thousand-foot distance from schools, churches and libraries.

D. No adult business shall be conducted in any manner that permits the observation of any material that depict, describes, or relates to specific sexual activities or specific anatomical areas from any public right-of-way or from any property not registered as an adult business. This provision shall also apply to any display, decoration, sign, show window, or other opening.

E. No on-site sign shall be permitted.

F. Adult businesses shall provide a minimum of one parking space for each 100 square feet of gross floor area, and one parking space for each employee. A parking space shall not be less than 10 feet by 20 feet. Parking for more than 50 vehicles shall delineate fire lanes.

G. No driveway shall be located less than 50 feet from an intersection, less than less than 20 feet from a property line, and be less than 20 feet in width.

H. Adult businesses shall provide a commercial refuse container placed on a concrete slab which is screened from view and is located so as to permit safe and easy removal of refuse by hand or truck.

I. No exterior light source shall be erected in excess of 50 feet above the ground, and light sources shall be placed so that direct light or glare is not cast upon adjacent properties.

J. Landscaping and/or fencing shall be provided along all side and rear lot lines to minimize visual conflicts with adjacent land uses.

K. Water supply and sewage disposal systems shall be reviewed and approved by the Village of Superintendent of Public Works.

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- M. No person under the age of 21 years shall be permitted on or within the premises of an adult business.

§ A1-4. Permit.

- A. No person shall engage in, conduct, or carry on an adult business in the Village of Sherburne unless a complete application therefore has been submitted, approved, and a permit issued by the Village of Sherburne Board.
- B. Each application for an adult business shall be submitted to the Village of Sherburne Board, contain all the information described below, and be accompanied by a nonrefundable application fee of \$1,000.00.
 - (1) The name, residential street address, and residential mailing address (if different) of the applicant.
 - (2) The street address and mailing address (if different) of the proposed adult business.
 - (3) All other residences of the applicant for the three-year period immediately preceding the date of the application.
 - (4) The business, occupation, or employment of the applicant for the three-year period immediately preceding the date of the application.
 - (5) Written proof that the applicant is 21 years of age or older.
 - (6) A complete set of the applicant's fingerprints.
 - (7) A description of the facilities and services to be available on the premises of the proposed adult business.

establishments or businesses, including, but not limited to, whether or not the person, previously operating in this state or another city or state under license, has had such permit revoked or suspended and the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

- (9) The criminal record either violation, misdemeanors or felonies of the applicant; if the applicant is an association or partnership, the complete criminal record of each associate or partner; if the applicant is a corporation, the criminal record of each officer or director of the corporation and each of the stockholders owning more than 10% of the stock of the corporation; if the applicant is a limited-liability company, the criminal record of each of the members and managers of the limited-liability company.
 - (10) A scale site plan showing: North arrow, drawing scale, Tax Map number(s), property boundaries and dimensions, existing and proposed buildings and dimensions, proposed grading and drainage, vegetation, parking, driveways, lighting, signs, refuse containers, fences, water source, sewage system, and any other pertinent information that may be deemed necessary by the Village of Sherburne Board.
- C. Upon receipt of a complete application and fee as provided for above, the Village of Sherburne Board shall make or cause to be made a thorough investigation of the applicant's criminal record, and shall review the site plan for compliance with the provisions of this chapter. .

§ A1-5. Approval, denial, suspension or revocation of permit.

- A. Permit approval. A permit application may be approved by the Village of Sherburne Board where it appears that the applicant has not been convicted of any offense which would be cause for

has not been convicted of any offense which would be cause for denial of a permit upon an original application, has not made false statements on an application for a permit, has not previously owned or operated an adult business which resulted in suspension or revocation of permits or licenses, and has not committed an act in violation of this chapter. The Village of Sherburne Board shall issue a permit within 60 days of completing investigation and concluding that issuance of the permit is warranted. A copy of the permit shall be filed in the office of the Village Clerk.

- B. Permit denial. A permit application may be denied by the Village of Sherburne Board where it appears that the applicant has been convicted of any offense which would be cause for denial of a permit, or has previously owned or operated an adult business which resulted in suspension or revocation of permits or licenses, or has committed an act in violation of this chapter. The Village of Sherburne Board shall give the applicant a written notice specifying the grounds for permit denial. The applicant may, within 30 days from the date of such denial, file written request with the Village Board for public hearing. The hearing shall be conducted by the Village Board and held within 90 days after filing the request for the hearing, and at which time the permit holder may present evidence bearing upon the question. The Village Board shall then issue a written finding within 30 days after the date of the public hearing as to whether the permit application was properly denied. If the Village Board determines the permit was unduly denied, Village of Sherburne Board shall be directed to issue a permit within 30 days of the date of the written finding. A copy of the permit shall be filed in the office of the Village Clerk.
- C. Permit suspension. A permit may be suspended and a fine levied against the permit holder by the Village of Sherburne Board where it appears that the permit holder has committed an act in violation of this chapter. The Village of Sherburne Board shall give the permit holder a written notice which shall: direct the

specify the grounds for suspension, specify the action that the permit holder must undertake to correct the violation, designate a ten-day time period from the date of said notice for all violations to be corrected to the satisfaction of the Sherburne Village Board, specify that if the violations are not adequately corrected within the ten-day time period, the permit shall be immediately revoked, and specify the fine to be levied against the permit holder. The permit holder may, upon payment of all fines and within 10 days from the date of such suspension, file a written request with the Village Board for a public hearing. The hearing shall be conducted by the Village Board and held within thirty days after the date of the public hearing as to whether the permit was properly suspended. If the Village Board determines the permit was unduly suspended, the permit shall be immediately reinstated, monies collected for fines shall be returned, and the adult business shall be allowed to resume operation. If the Village Board determines the permit was properly suspended, the adult business shall continue not to operate, and the permit holder shall have 10 days from the date of receipt of the written finding to correct the violation(s) to the satisfaction of the Village of Sherburne Board. If the violation(s) are adequately corrected, the Village of Sherburne Board shall immediately reinstate the permit and the adult business shall be allowed resume operation. If the violation(s) are not adequately corrected, the Village of Sherburne Board shall immediately revoke the permit following the procedures described below.

- D. Permit revocation. A permit may be revoked by the Village of Sherburne Board where it appears that the permit holder has not corrected violations pertaining to a previously issued suspension notice, or has committed an act in violation of the chapter. A permit shall be automatically revoked if the permit holder receives more than two separate suspensions. The Village of Sherburne Board shall give the permit holder a written notice directing the permit holder to immediately terminate operation of the business and shall specify the grounds for revocation. The permit holder may, within 10 days from the date of such revocation, file a written request with the Village Board for a public hearing. The hearing

permit holder may, within 10 days from the date of such revocation, file a written request with the Village Board for a public hearing. The hearing shall be conducted by the Village Board and held within 30 days after filing of the request for the hearing, and at which time the permit holder may present evidence bearing upon the question. The Village Board shall then issue a written finding within five days after the public hearing as to whether the permit was properly revoked. If the Village Board determines the permit was unduly revoked, the permit shall be reinstated and the adult business use shall be allowed to resume operation. If the Village Board determines the permit was properly revoked, the adult business shall immediately and permanently cease to operate.

§ A1-6. Penalties for offenses.

- A. A violation of any provision of this chapter shall constitute an offense, and shall be subject to suspension of the permit and be punishable by a fine of \$500 for the first suspension, and \$1,000 for a second and final suspension. A permit shall be automatically revoked if the permit holder receives more than two separate suspensions.
- B. If an adult business operates without a permit, or unlawfully operates after a permit was properly suspended or revoke, such violation shall be punishable by a fine of \$1,000 and/or by imprisonment for up to 15 days. Each day such a violation continues shall constitute a separate offense.

§ A2-1 PRESENCE & CONDUCT OF MINORS § A2-2

APPENDIX 2

PRESENCE & CONDUCT OF MINORS

- § A2-1. Title.
- § A2-2. Definitions.
- § A2-3. Curfew for minors.
- § A2-4. Responsibility of owners of public places.
- § A2-5. Parents' responsibility.
- § A2-6. Special functions.
- § A2-7. Procedures.
- § A2-8. Penalties.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 6-16-2008. Amendments noted where applicable.]

§ A2-1. Title.

This ordinance shall be known and may be cited as the "Ordinance Regulating the Presence and Conduct of Minors on Streets and Public Places".

§ A2-2. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning giving herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number the.

§ A2-2 PRESENCE & CONDUCT OF MINORS § A2-3

singular number, and words in the singular number the world number. The word "shall" is always mandatory and not merely directory.

- A. Village is the Village of Sherburne.
- B. Minor is any person under the age of 16.
- C. Parent is the natural or adoptive parent of a minor.
- D. Guardian is any person other than a parent, who has legal guardianship of a minor.
- E. Custodian is a person over the age of 21 who is no loco parentis to a juvenile.
- F. Public Place shall mean any street, alley, highway, sidewalk, park, playground, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, cafe, theater, drugstore, pool room, shopping center, and any other place devoted to amusement or open to the general public. It shall also include the front or immediate area of the above.

§ A2-3. Curfew for minors.

It shall be unlawful for any minor to remain, idle, wander, stroll, or play in any public place either on foot or to cruise about without a set destination in any vehicle in, about, or upon any place in the Village between the hours of 11 p.m. and 6 a.m. Sunday through Thursday, and between the hours of 12 midnight and 6 a.m. Friday through Saturday, unless accompanied by a parent, guardian, custodian, or other adult person having custody or control of such minor, or unless the minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian, or other adult person having the care and custody of the minor, or

other adult person having the care and custody of the minor, or where the presence of such minor is connected with or required by some legitimate employment, trade, profession, or occupation.

§ A2-4. Responsibility of owners of public places.

It shall be unlawful for any person, firm, or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors under the age of 16 between the hours of 11 p.m. and 6 a.m. Sunday through Thursday, and between the hours of 12 p.m. and 6 a.m. Friday through Saturday.

§ A2-5. Parents' responsibility.

It shall be unlawful for the parent, guardian, or other adult person having custody of or control of any minor under the age of 16 to suffer or permit or by inefficient control to allow such person to be on the streets or sidewalks or on or in any public property or public place within the Village between the hours of 11 p.m. and 6 a.m. Sunday through Thursday and between the hours of 12 midnight and 6 a.m. Friday through Saturday. However, the provisions of this Section do not apply to a minor accompanied by his parent, guardian, custodian, or other adult person having the care, custody, or control of the minor, or if the minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian, or other adult having the care and custody of the minor or if the parent, guardian, or other adult person herein has made a missing person notification to the Police Department.

§ A2-6. Special functions.

Any minor attending a special function or entertainment of any church, school, club, or other organization that requires such minor to be of at a later hour than at called for in §3 shall be exempt from

§ A2-6 PRESENCE & CONDUCT OF MINORS § A2-8

club, or other organization shall register in advance with the Village Police to have the minors stay out to this later hour. The registrant shall state the time the function or entertainment shall end, and the minors who attend the function shall be required to be in their homes or usual places of abode within one half hour after the function is ended.

§ A2-7. Procedures.

- A. Any police official upon finding a minor in violation of §3 shall ascertain the name and address of such minor and warn the minor that he is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the parents, guardian, or person having custody or control of such minor.

- B. If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his correct name and address, or if the minor had been warned on a previous occasion that he or she his in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian, or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian, or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the Chenango County Department of Social Services.

§ A2-8. Penalties.

Any parent, guardian, or other adult person having the care and custody of a minor violating this ordinance shall, after having been previously notified under §7 of this ordinance, the fine not more than \$25 for each offense.

Appendix 3

OUTDOOR BURNING FURNACES

- § A3-1. Purpose.
- § A3-2. Definitions.
- § A3-3. Authority; enforcement.
- § A3-4. Construction and operation prohibited.
- § A3-5. Penalties for offenses.
- § A3-6. Nonconforming uses.
- § A3-7. Severability; when effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 9-5-2006. Amendments noted where applicable.]

§ A3-1. Purpose.

A Local Law of the Village of Sherburne Prohibiting Outdoor Burning Furnaces. It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor burning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this article, it is the intention of the Village of Sherburne Board of Trustees to establish and impose restrictions upon the construction and operation of outdoor burning furnaces within the limits of the Village for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Village and its inhabitants.

§ A3-2. Definitions.

As used in this article, the following terms shall have the meanings indicated: OUTDOOR BURNING FURNACE -- An accessory structure, designed and intended, through the burning of wood or any combustible materials, for the purpose of heating the principal structure or any other site, building, or structure on the premises. VIOLATOR or ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE -- Any person who owns or occupies the property at the time the outdoor furnace has been installed and/or operated.

§ A3-3. Authority; enforcement.

- A. This article is adopted pursuant to the authority of Article 2, 10 of the New York State Municipal Home Rule Law, and Article 4, 4-412 of the New York State Village Law.
- B. The Village of Sherburne Code Enforcement Officer, or any other person who may hereafter be designated by resolution of the Village Board of Trustees, is hereby authorized in the name and on behalf of the Village of Sherburne to undertake and prosecute any proceedings necessary or appropriate to enforce compliance with this article.

§ A3-4. Construction and operation prohibited.

The construction and operation of outdoor burning furnaces are hereby prohibited within the Village of Sherburne.

§ A3-5. Penalties for offenses.

- A. Any person who shall violate any provision of this article shall be guilty of a violation as defined in Article 10 of the New York

State Penal Law, and shall, upon conviction, be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate and distinct offense.

- B. Compliance with this article may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this article shall also be subject to a civil penalty of not more than \$500, to be recovered by the Village in a civil action. Each week's continued violation shall be, for this purpose, a separate and distinct violation.
- C. In the event the village is required to take legal action to enforce this article, the violator will be responsible for any and all necessary costs incurred by the Village relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property so affected by including such expense in the next annual Village tax levy against the property.

§ A3-6. Nonconforming uses.

- A. Except as hereinafter provided, the lawful use of any outdoor burning furnace existing at the time of the adoption of this article may be continued, although such use does not conform to the provisions of the article.
- B. No outdoor burning furnace existing at the time of the adoption of this article shall thereafter be extended or enlarged.
- C. Any existing outdoor burning which is abandoned or discontinued for a period of seven consecutive months shall not

be permitted to be reestablished as a nonconforming use, and must be immediately removed by the property owner from the subject premises.

- (1) If the property owner fails to remove the outdoor burning furnace by the end of said seven-consecutive-month period, the Village of Sherburne Code Enforcement Officer shall give written notice by certified mail or personal service to the owner of the property upon which the outdoor burning furnace is located. Such notice shall provide that said owner shall remove the outdoor burning furnace within 15 days of the date the notice is either postmarked or personally served upon the owner.
 - (2) Should the outdoor burning furnace not be removed within the time specified, the Code Enforcement Officer shall take reasonable steps to effect its removal.
 - (3) The costs incurred by the village to effect said removal (including any attorneys fees incurred by the Village to effect the removal), plus an amount equal to 50% of said costs of removal, shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then said expense shall be charged to the property so affected by including such expense in the next annual Village tax levy against the property.
- D. No existing outdoor burning furnace which has been damaged by any reason to the extent of more than 75% of its assessed value for Village of Sherburne tax purposes shall be repaired or rebuilt.

§ A3-7. Severability; when effective.

- A. The provisions of this article are severable and the invalidity of a particular provision shall not invalidate any other provisions.
- B. This article shall take effect immediately upon filing in the office of the New York Secretary of State.

§ A4-1 365 DAY MORATORIUM § A4-2

Appendix 4

365 DAY MORATORIUM

- § A4-1. Title.
- § A4-2. Purpose and Intent.
- § A4-3. Scope of Controls.
- § A4-4. No consideration of new applications.
- § A4-5. Term.
- § A4-6. Penalties.
- § A4-7. Validity.
- § A4-8. Hardship.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 3-15-2006. Amendments noted where applicable.]

§ A4-1. Title.

This Local Law shall be referred to as the **“Local Law Imposing a 365 (three hundred sixty-five) Day Moratorium on Construction, Placement or Permitting of High Voltage Direct Current Transmission Systems.”**

§ A4-2. Purpose and Intent.

Pursuant to the statutory powers vested in the Village of Sherburne (hereinafter “Village”) to regulate and control land use, and to protect the health, safety and general welfare of the residents

of the Village, to provide standards for the safe provision of HVDC Transmission Systems consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Village Board (hereinafter "Village Board") of the Village hereby declares and imposes a three hundred sixty-five (365) day moratorium on the construction, placement, establishment, erection and enlargement of HVDC Transmission systems to include towers and facilities (hereinafter collectively referred to as HVDC Transmission Systems") in the Village.

The Village Board hereby finds and determines that:

The rapidly changing technology and the location of current electrical substations, along with the demands on the current electrical power supply in the lower Hudson Valley, Long Island and New York City indicate that applications for construction and placement of HVDC Transmission Systems may soon be received by the Village. The integration of these HVDC Transmission Systems within the Village's existing pattern of predominantly residential and agricultural land use emphasizes the need for suitable land use standards and controls with reference to HVDC Transmission Systems. The Village Board desires to address, in a careful manner, the construction, placement, establishment, erection and enlargement (hereinafter collectively referred to as "Siting") of HVDC Transmission Systems on a Village-wide basis, rather than on an ad-hoc basis, and to adopt a comprehensive local law to specifically regulate the same. The Village Board needs to have the time period prescribed by this local law in order to further study, in a careful manner, the issues described herein above, and to be in a position to adopt a comprehensive local law relating to HVDC Transmission Systems and the Siting thereof.

§ A4-3. Scope of Controls.

- A. During the effective period of the moratorium imposed by this local law:
 1. The Village Board shall not grant any approvals

which would have as a result the Siting of any HVDC Transmission System within the Village.

2. The Village of Sherburne Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit, or other permit or application which would have as a result the Siting of any HVDC Transmission Systems within the Village.
3. The Village, or County Building and Code Enforcement Officer or Inspector shall not issue any permit which would result in the Siting of any HVDC Transmission System within the Village.

- B. The Village Board of the Village reserves the right to direct the Village, or County, Building and Code Enforcement Officer or Inspector to revoke or rescind any permits or certificates of occupancy issued in violation of local law.

§ A4-4. No consideration of new applications.

No application for Siting of HVDC Transmission Systems affected by this local law or for approvals for subdivision, site plan, variance, special use permit or other permits or applications relating to HVDC Transmission Systems shall be considered by any board, officer or agency of the Village while the moratorium imposed by this local law is in effect.

§ A4-5. Term

The moratorium imposed by this local law shall be in effect for a period of three hundred sixty-five (365) days from the effective date of this local law.

§ A4-6. Penalties.

Any person, firm or corporation who (that) shall site HVDC Transmission Systems in violation of the provisions of this local law or shall otherwise violate any of the provisions of this local law shall be subject to:

- A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules or regulations of the Village for violations: and/or
- B. Injunctive relief in favor of the Village to cease any and all such actions which conflict with, or are in violation of, this local law, and if necessary to remove any HVDC Transmission Systems or Siting which may have taken place in violation of this local law.

§ A4-7. Validity.

The invalidity of any provision of this local law shall not affect the validity of any other provision of this local law which can be given effect without such invalid provision.

§ A4-8. Hardship.

- A. Should any owner of property within the Village or other applicant affected by this local law suffer an unnecessary hardship in the way of carrying out the stricter letter of the law, then the owner of said property or applicant may apply to the Village Board in writing for a variation from strict compliance with this local law upon submission of proof of such unnecessary hardship. For purposes of this local law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the

application for a variance, special use permit, site plan, subdivision, or other permit or application during the period of the moratorium imposed by this local law.

B. Procedure:

Upon submission of a written application to the Village Clerk of the Village by the property owner or applicant seeking a variation of this local law, the Village Board shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days written notice in the official newspaper of the Village. At said public hearing the property owner, applicant and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard. The Village Board shall, within fifteen (15) days of the close of said public hearing render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the Village Board determines that a property owner or applicant will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Village Board shall vary the application of this local law to the minimum extent necessary to provide the property owner or applicant relief from strict compliance with this local law.

§ A5-1

FIVE YEAR MORATORIUM

§ A5-2

Appendix 3

FIVE YEAR MORATORIUM

§ A5-1. **Title.**

§ A5-2. **Purpose and Intent.**

§ A5-3. **Scope of Controls.**

§ A5-4. **No consideration of new applications.**

§ A5-5. **Term.**

§ A5-6. **Penalties.**

§ A5-7. **Validity.**

§ A5-8. **Hardship.**

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 8-20-2007. Amendments noted where applicable.]

§ A5-1. **Title.**

This Local Law shall be referred to as the **“Local Law Imposing a Five (5) Year Moratorium on Construction, Placement or Permitting of High Voltage Direct Current Transmission Systems.”**

§ A5-2. **Purpose and Intent.**

Pursuant to the statutory powers vested in the Village of Sherburne (hereinafter “Village”) to regulate and control land use, and to protect the health, safety and general welfare of the residents of the Village, to provide standards for the safe provision of HVDC Transmission Systems

consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Village Board (hereinafter "Village Board") of the Village hereby declares and imposes a five (5) year moratorium on the construction, placement, establishment, erection and enlargement of HVDC Transmission systems to include lines, towers and facilities (hereinafter collectively referred to as HVDC Transmission Systems) in the Village.

The Village Board hereby finds and determines that:

The rapidly changing technology and the location of current electrical substations, along with the demands on the current electrical power supply in the lower Hudson Valley, Long Island and New York City indicate that applications for construction and placement of HVDC Transmission Systems may soon be received by the Village. The integration of these HVDC Transmission Systems within the Village's existing pattern of predominantly residential and agricultural land use emphasizes the need for suitable land use standards and controls with reference to HVDC Transmission Systems. The Village Board desires to address, in a careful manner, the construction, placement, establishment, erection and enlargement (hereinafter collectively referred to as "Siting") of HVDC Transmission Systems on a Village-wide basis, rather than on an ad-hoc basis, and to adopt a comprehensive local law to specifically regulate the same. The Village Board needs to have the time period prescribed by this local law in order to further study, in a careful manner, the issues described herein above, and to be in a position to adopt a comprehensive local law relating to HVDC Transmission Systems and the Siting thereof.

§ A5-3. Scope of Controls.

- A. During the effective period of the moratorium imposed by this local law:
 - (1) The Village Board shall not grant any approvals which would have as a result the Siting of any HVDC Transmission System within the Village.

- (2) The Village of Sherburne Planning Commission shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit, or other permit or application which would have as a result the Siting of any HVDC Transmission Systems within the Village.
 - (3) The Village, or County Building and Code Enforcement Officer or Inspector shall not issue any permit which would result in the Siting of any HVDC Transmission System within the Village.
- B. The Village Board of the Village reserves the right to direct the Village, or County, Building and Code Enforcement Officer or Inspector to revoke or rescind and permits or certificates of occupancy issued in violation of local law.

§ A5-4. No consideration of new applications.

No application for Siting of HVDC Transmission Systems affected by this local law or for approvals for subdivision, site plan, variance, special use permit or other permits or applications relating to HVDC Transmission Systems shall be considered by any board, officer or agency of the Village while the moratorium imposed by this local law is in effect.

§ A5-5. Term.

The moratorium imposed by this local law shall be in effect for a period of five (5) years from the effective date of this local law.

§ A5-6. Penalties.

- A. Any person, firm or corporation who (that) shall site HVDC Transmission Systems in violation of the provisions of this local

law or shall otherwise violate any of the provisions of this local law shall be subject to:

- B. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules or regulations of the Village for violations; and/or.
- C. Injunctive relief in favor of the Village to cease any and all such actions which conflict with, or are in violation of, this local law, and if necessary to remove any HVDC Transmission Systems or Siting which may have taken place in violation of this local law.

§ A5-7. Validity.

The invalidity of any provision of this local law shall not affect the validity of any other provision of this local law which can be given effect without such invalid provision.

§ A5-8. Hardship.

- A. Should any owner of property within the Village or other applicant affected by this local law suffer any unnecessary hardship in the way of carrying out the
 - (a) stricter letter of the law, then the owner of said property or applicant may apply to the Village Board in writing for a variation from strict compliance with this local law upon submission of proof of such unnecessary hardship. For purposes of this local law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, site plan, subdivision, or other permit or application during the period of the moratorium imposed by this local law.

B. Procedure:

- (a) Upon submission of written application to the Village Clerk of the Village by the property owner or applicant seeking a variation of this local law, the Village Board shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days written notice in the official newspaper of the Village. At said public hearing the property owner, applicant and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard. The Village Board shall, within fifteen (15) days of the close of said public hearing render its decision either granting or denying the application for a variation from the strict requirements of this local law. If the Village Board determines that a property owner or applicant will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Village Board shall vary the application of this local law to the minimum extent necessary to provide the property owner or applicant relief from strict compliance with this local law.

**DISPOSITION
LIST**

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Sherburne adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 1-1993, adopted 10-25-1993. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Village Clerk.

| Enact- ment | Adoption Date | Subject | Disposition |
|------------------------|--------------------------|--|---------------------|
| L.L. No. 1-1994 | 8-8-1994 | Alcoholic beverages | Ch. 67 |
| L.L. No. 2-1994 | 9-26-1994 | Adoption of Code | Ch. 1, Art. I |
| Res. | 8-30-1996 | Vehicles and traffic amendment | Ch. 239 |
| L.L. No. 1-1997 | 7-28-1997 | 1997 retirement incentive program | Ch. 40, Art. III |
| L.L. No. 1-1998 | 1-26-1998 | Sewers amendment | Ch. 202 |
| L.L. No. 1-1999 | 1-20-1999 | Terms of office: Mayor and Trustees | Ch. 63, Art. I |
| L.L. No. 2-1999 | 1-20-1999 | Sewers amendment | Ch. 202 |
| L.L. No. 3-1999 | 2-22-1999 | Code of ethics amendment | Ch. 20 |

SHERBURNE CODE

| Enact- ment | Adoption Date | Subject | Disposition |
|------------------------|--------------------------|--------------------------------------|--------------------|
| L.L. No. 4-1999 | 8-23-1999 | 1999 retirement incentive program | Ch. 40, Art. IV |
| L.L. No. 1-2000 | 6-26-2000 | Sewer assessments amendment | Ch. 201 |

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