

**TOWN OF STERLING**

**ZONING LAW**

**ADOPTED BY THE STERLING  
TOWN BOARD ON  
APRIL 14, 1997**

## ARTICLE I GENERAL PROVISIONS

### Section 100 Short Title

This Local Law shall be known as and may be cited as the "Town of Sterling Zoning Law".

### Section 101 Purpose

The purpose of this law shall be to:

- Promote the health, safety and general welfare of the community
- Reduce congestion on the streets and highways
- Secure safety from fire, flood, panic, and other dangers
- Provide adequate light and air
- Prevent overcrowding of land and undue concentration of population
- Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities
- Conserve the value of property

And, under article 16 of the N.Y.S. Town Law, to establish districts with regulations concerning:

- The use of land, buildings and other structures for trade, industry, residence and other purposes
- The density of development
- The size of yards
- The percentage of lot that may be occupied
- The provision of parking
- The control of signs
- To encourage the most appropriate development of the Town of Sterling, meeting the intentions of the Town of Sterling's Master Plan.

### Section 102 Procedures

The procedures for complying with the terms of this Law are enumerated in Article XII, Administration.

Generally the procedures for all construction, subdivision of land, and use of buildings in the Town require:

- Issuance of a permit by the Code Enforcement Officer in accordance with the provisions of Article XII.
- Issuance of a certificate of occupancy by the Code Enforcement Officer in accordance with the provisions of Article XII herein.
- No permit or certificate of occupancy shall be issued for any undertaking not in compliance with the provisions of this or any other, applicable local, county, state or federal law.

## ARTICLE II DEFINITIONS

### Section 200 General

Unless a different intention clearly appears, the following words and phrases shall have for the purpose of this ordinance the following meanings; and for the purposes of this Law words and terms used herein shall be interpreted as follows:

- (A) Words used in the present tense include the future.
- (B) The singular includes the plural.
- (C) The word "person" includes a corporation, partnership, and association as well as the individual.
- (D) The term "lot" includes the word "plot" or "parcel".
- (E) The term "shall" is mandatory.
- (F) The word "building" includes the word "structure".
- (G) The words "uses" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- (H) The word "street" shall include the word "road"
- (I) Any word or term not defined herein shall be used with a meaning of standard usage.

### SECTION 201 Accessory

- (A) Accessory Building (See Section 206)
- (B) Accessory Use-a use incidental to and on the same lot as a principal use

## **SECTION 202 Alterations**

As applied to a building or structure, a change or rearrangement in the structural parts, or as enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

## **SECTION 203 Area: (measured in square feet)**

(A) Lot area: The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

(B) Building area: The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

(C) Floor area: The sum of the areas of the several floors of a building structure, for human occupancy and basement, as measured from the exterior faces of the walls, it does not include unfinished cellars, unenclosed porches and attics not used for human occupancy.

## **Section 204 Basement:**

A story partly underground, but having one half or more of its height (measured from floor to ceiling) above the average level of the adjoining ground; a basement shall be counted as a story for the purpose of height measurement or determining square foot area.

## **Section 205 Buffer Strip**

A strip of open land along the perimeter of a lot in widths prescribed by the applicable sections of this law, planted with grass, trees and/or shrubs so as to provide a pleasant aesthetic appearance and visual screen and which shall contain no buildings or structures except a fence.

## **Section 206 Building**

A structure having a roof which is used or intended to be used for the shelter or enclosure of persons, animals, or property; the word "building" shall include any parts thereof.

(a) Principal Building: A building or buildings in which is conducted, or intended to be conducted, the principal or primary use of the lot on which it is located.

(b) Accessory Building: A subordinate building located on the same lot as the principal building and clearly incidental and subordinate to the principal building; any portion of the principal building devoted to an accessory use is not an accessory building.

## **Section 207 Building Coverage**

The percentage of the plot or lot area covered by the building area.

## **Section 208 Building Height:**

A vertical distance measured from the mean elevation of the proposed finish grade at the front of the building to the highest point of the roof for flat roofs, to the deck lines of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

## **Section 209 Building Line:**

The line formed by the intersection of a vertical plane that coincides with the exterior surface of a building on any side and the ground; in the case of a cantilevered building, the vertical plane shall coincide with the most projected surface.

## **Section 210 Campground**

As used in this standard, any parcel or tract of land under the control of any person, organization, or governmental entity wherein sites are offered for the use of the public or members of an organization for the establishment of temporary living sites for two or more camping units or recreational vehicles.

Campgrounds may be one of the following types:

- (A) **Primitive Campground.** A campground accessible only by walk-in, or equestrian campers where no facilities are provided for the comfort and convenience of the campers.
- (B) **Semi-Primitive Campground.** A campground accessible only by walk-in, equestrian or motorized trail vehicles where rudimentary facilities (privies and/or fireplaces) may be provided for the comfort and convenience of the campers.
- (C) **Semi-Developed Campground.** A campground with two or more recreational units sites, accessible by vehicular traffic. Roads, facilities (toilets and/or privies) are provided.
- (D) **Developed Campground.** A campground with two or more recreational unit sites accessible by vehicular traffic where sites are substantially developed and tables, refuse container, flush toilets, bathing facilities and water are provided.

**Section 211 Cellar**

A story partly underground and having more than one half of its height (measured from floor to ceiling) below the average level of the adjoining ground; a cellar shall not be considered in determining the permissible number of stories or square foot area unless it is habitable.

**Section 212 Detached**

As applied to a structure, means having an open space on all four sides.

**Section 213 Dormitory**

A building or a part thereof used as group quarters for unrelated individuals sharing common cooking, social and hygienic facilities. The definition would cover fraternity, sorority houses and group homes.

**Section 214 Dwelling**

A building or part thereof, which is designed and used for year-around human habitation, or intended to be so used, and including any appurtenances thereto.

- (A) **Dwelling Unit:** Any room or group of rooms located within residential building and forming a single habitable unity with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (B) **One Family Detached Dwelling:** A dwelling having:
  1. Only one dwelling unit from ground to roof.
  2. Independent outside access.
  3. Open space on all sides.
- (C) **Two Family Dwelling:** A building used or designed for or occupied exclusively by two families living independently of each other.
- (D) **Multiple Family Dwelling:** A building used or designed or occupied as a residence for three (3) or more families living independently of each other.

**Section 215 Excavation**

Means the removal of sand, gravel, rock or stone, topsoil, soil or earth, turf and other similar substances from their natural location in or on the ground for any purposes, with the following exceptions:

- The construction of a building, structure or part thereof for which a building permit has been issued; farm pond, wildlife marsh or other conservation practice; wall, driveway, sidewalk; or for the construction of public utilities.
- All grading of lands pursuant to plans approved by the Town Planning Board, Zoning Board of Appeals or Town Board for site preparation, public and private site development and site improvement shall also be excluded from this definition.

**Section 216 Family**

One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

**Section 217 Gasoline Service Facilities**

- (A) Gasoline Service Stations (See Section 603-17)
- (B) Gasoline Self Service Station (See Section 603-17)

**Section 218 Grade, finished**

A finished grade which is the completed surface of the lawns, walks, roads and other surfaces brought to grades shown on plans or designs submitted to the Planning Board or in existence at the time the Certificate of Occupancy is issued.

**Section 219 Hamlet**

An unincorporated area providing some basic service similar to a small village where commercial and residential activity takes place.

**Section 220 Home Occupation**

A subordinate use of a commercial or service nature located on a lot whose primary use is residential and which is not detrimental to the residential character of said lot and surrounding neighborhood. (See Section 603-8)

**Section 221 Lot**

A parcel of land used or set aside and available for use as the site of one or more buildings and building accessory thereto or for any other purpose, in one ownership and not divided by a street, nor including any land within the right-of-way of a public or private street upon which said land abuts, even if the ownership to such way is with the owner of the lot; a lot for the purpose of this Law may or may not coincide with a lot of record.

- (A) **Corner Lot:** A parcel of land at the junction of and fronting on two or more intersecting streets.
- (B) **Through Lot:** An interior lot having frontage on two parallel or approximately parallel streets.
- (C) **Lot Depth:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
- (D) **Lot Width:** The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.
- (E) **Lot Line:** Any boundary or property line of a lot.

**Section 222 Mobil Home/Manufactured Home**

As used in this law the terms manufactured home are defined by the terms of the NYS Uniform Fire and Building Code, Chapter D as now constructed or hereafter amended.

**Section 223 Mobile Home Park**

A parcel of land under single ownership which is improved for the placement of two or more mobile homes, whether or not for compensation.

**Section 224 Nonconforming Lot and Structure**

A lot or structure that does not conform to the dimensional regulations prescribed by this law for the district in which it is to be located; or to the regulations for signs, off-street parking and loading, or accessory buildings, but which lot or structure was in existence at the effective date of this Law and was lawful at the time it was established.

**Section 225 Nonconforming Use**

A use of a building or lot that does not conform to the use regulations prescribed by this law for the district in which it is located but which was in existence at the effective date of this ordinance and was lawful at the time it was established.

## **Section 226      Recreational Vehicle**

A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or towed by another vehicles. The basic entities are travel trailer, camping trailer, truck camper and motor home.

(A) **Camping Trailer:** A vehicular portable unit mounted on wheel and constructed with a collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(B) **Travel Trailer:** A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, with a living area of less than 220 sq. ft.

(C) **Truck Camper:** A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

(D) **Motor Home:** A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the vehicle.

## **Section 225      Right-of-Way**

Land set aside for the use as a street, alley, or other means of travel.

## **Section 227      Roomer, Boarder, or Lodger**

A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, and paying compensation for lodging or for board and lodging.

## **Section 228      Sewer**

(A) **Public Sewer:** A public sewer is any municipal or privately owned sewer system in which sewage is collected from buildings and piped to an approved sewage disposal plant or central septic tank disposal system; it may also be referred to as a "off-lot" sewer.

(B) **Private Sewer:** A private, or "on-lot", sewer is a septic tank disposal system generally providing for disposal of effluence for only one (1) building or a group of buildings on a single lot.

## **Section 229      Sign**

A sign shall mean and include any permanent or temporary structure or part thereof, or any device attached, painted, or represented directly or indirectly on a structure or other outdoor surface that shall display or include any letter, work, insignia, flag, or representation used as, or which is in the nature of, an advertisement announcement, visual communication, direction, or is designed to attract the eye or bring the subject to the attention of the public.

(A) **On Premises Sign** (See Article IX).

(B) **Off Premises Sign** (See Article IX).

## **Section 230      Street/Road and Street/Road Line**

A street/road is a public or private way used or intended to be used for passage or travel by automobile which affords access to adjoining properties. The street/road line is the dividing line between the street and the lot. The street/road line shall be the same as the legal Right-of-way provided that where a future right-of-way width for a road or street has been established, said future width shall determine the street line.

## **Section 231      Structure**

A combination of materials assembled, constructed, or erected at a fixed location including a building, the use of which requires location on the ground or attachment to something having location on the ground.

## **Section 232      Tourist Home/Bed & Breakfast**

A Tourist Home or Bed & Breakfast is a dwelling in which overnight accommodations are provided or offered for transient guests for compensation with or without meals.

**Section 233 Use**

- (A) **Use:** Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.
- (B) **Accessory Use:** A use located on the same lot with the principal use, and clearly incidental or subordinate to, and customary in connection with, the principal use.
- (C) **Principal Use:** The main use on a lot.

**Section 234 Yard**

An open space unobstructed from the ground up on the same lot with a structure, extending along a lot line or street line and inward to the structure; the size of the required yard shall be measured as the shortest distance between the structure and a lot line or street line.

- (A) **Front Yard:** A yard between a structure and a street line and extending the entire length of the street line; in case of a corner lot, the yards extending along all streets are front yards; in case of a lot other than a corner lot that fronts on more than one street, the yards extending along all streets are front yards.
- (B) **Rear Yard:** A yard between a structure and a rear lot line, extending the entire length of the rear lot line.
- (C) **Side Yard:** A yard between a structure and a side lot line, extending from the front yard; in the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

**Article III ESTABLISHMENT OF DISTRICTS**

**Section 300 Districts**

Fore the purpose of promoting the public health, safety and general welfare of the Town of Sterling, the Town is hereby divided into the following types of districts:

- (A) **H-Hamlet**  
An unincorporated area providing some basic service similar to a small village, where commercial and residential activity takes place.
- (B) **W-Waterfront**  
Areas located primarily along the Lake Ontario shoreline and creekbank areas, that because of pre-existing residential densities and sensitive environmental factors deserve special consideration. Area requirements are similar to the hamlet district.
- (C) **AR-Agricultural/Residential**  
An area which can be utilized for any legal purpose, but whose primary focus is on agriculture and low density residential development.
- (D) **IPD-Industrial Planned Development** (See Section 703 D-3).
- (E) **CPD-Commercial Planned Development** (See Section 703 D-2).
- (F) **RPD-Residential Planned Development** (See Section 703 D-1).

**Section 301 Zoning Map**

Said Districts are bounded as shown on a map entitled "Town of Sterling Zoning Map" certified by the Town Clerk, which accompanies and which with all the explanatory matter thereon, is hereby made a part of this law. The Zoning Map is on file in the office of the Clerk of the Town of Sterling.

**Section 302 Interpretation of District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- (A) Where district boundaries are indicated as approximately following the center line of streets or highways, street lines, or highway right of ways lines, such center lines, street lines or right of way lines shall be construed to be such boundaries.
- (B) Where district boundaries are so indicated that they approximately follow lot lines, such lot line shall be construed to be said boundaries.
- (C) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines or right of way lines of highways, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as shall be determined by the use of the scale shown on the zoning map.
- (D) In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Board of Appeals shall determine the location of such boundary.

**Article IV        DIMENSIONAL REQUIREMENTS**

**Section 400        District Regulations**

The regulations for each district pertaining to minimum lot size, minimum lot width, minimum front yard depth, minimum side yard width, minimum rear yard depth, and maximum height shall be s specified in this Section, subject to the further provisions of Article III and Article V.

**TABLE OF DIMENTIONAL REQUIREMENTS**

<b>District</b>	<b>Minimum Lot Size (feet)</b>	<b>Minimum Lot Width</b>	<b>Minimum Yards (feet)</b>			<b>Maximum Height (feet)</b>	<b>Maximum Building Coverage</b>
			<b>Front</b>	<b>Side</b>	<b>Rear</b>		
AR	2 acres	200	80	20	35	35	35%
H	40,000 sq. ft.	100	50	20	35	35	35%
W	40,000 sq. ft.	100	50	20	35	35	35%
PDD							
CPD	10 acres	400	60	35	35	35	35%
IPD	10 acres						
RPD	10 acres						

\*Where the applicant can demonstrate that the characteristics of a property or properties will meet the intent of the PPD district, projects with less acreage may be considered qualified for such a district.

**Section 401        Front and Side Yards of Corner Lots**

On a corner lot the street side yard shall equal the required front yard for lots facing that street.

**Section 402        Exceptions of Minimum Lot Sizes and Lot Widths**

The provisions of Section 400 shall not prevent the construction of a single family dwelling, provided that sanitary requirements are observed, on any lot which was lawful when created and which prior to the effective date of this Law was in separate ownership duly recorded by plot or deed.

**Section 403        Traffic Visibility Across Corners (clear sight triangle)**

- (A) On any corner lot, no wall, fence, or other structure shall be erected or altered or no hedge, tree, shrub, or other growth except agricultural crops shall be maintained which may cause danger to traffic on a public street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on such line 25 feet from the intersection of each street line.
- (B) Where a private access way intersects a public street, visual obstruction shall be limited to a height of no more than two (2) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines. Mail boxes and paper tubes are excluded from this height restriction.

**Section 404 Building Height Exceptions**

Maximum height regulations shall not apply to farm buildings, church spires, chimneys, or other structures built above the roof and not devoted to human occupancy.

**Section 405 Essential Services**

The erection, construction, alteration or maintenance by public utilities or town or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, communication systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or town or other governmental agencies or for the public health or safety or general welfare, but not including buildings will be permitted.

**Section 406 Fences**

Fences are exempt from setback requirements with the exception of those requirements stated in Section 403.

**ARTICLE V USE REGULATIONS**

**Section 501 Applicability of Regulations**

Except as provided by law or in this Local Law, in each district no building, structure, or land shall be used or occupied except for the purposes permitted in Section 506 and for the zoning districts so indicated.

**Section 502 Uses by Right, Special Permit, and Uses Not Permitted**

- (A) A use listed in Section 506 is permitted by right in any district denoted by the letter "P" subject to such requirements (Special Conditions) denoted by the letters "SC" as may be specified in this Law after a permit has been issued in accordance with Article XII.
- (B) A use listed in Section 506 may be permitted by Special Permit in any district denoted by the letters "SP" provided the Planning Board authorizes the issuance of a zoning permit by the Code Enforcement Officer, subject to the requirements of Section 1405 Special Permits, and such further restrictions that said board may require.
- (C) A use not permitted in any district is denoted by the letter "N".

**Section 503 Use are Subject to Other Regulations**

Uses permitted shall be subject, in addition to use regulations, to such regulations as yard, lot size, lot width, building area, provisions for off-street parking and loading, and to such other provisions as are specified in other Articles.

**Section 504 Provision Applicable to Commercial Use**

The following provision shall apply to commercial uses: storage areas, as well as dumpsters and trash bins shall be substantially screened from view of the public road and any adjacent residential use.

**Section 505 Prohibited Uses**

Any uses not expressly stated and permitted in Section 506 are prohibited in the Town of Sterling.

**Section 506 Permitted Uses****P** = Permitted by Right**SC** = Permitted with Special Conditions (See Section as Denoted)**N** = Not Permitted in District**X** = site plan review required**SP** = Special Permit Required (See Sections as Denoted)

<u>LAND USE OR ACTIVITY</u>	<u>W</u>	<u>H</u>	<u>A/R</u>	<u>IPD</u>	<u>CPD</u>	<u>RPD</u>	<u>REFERENCE</u>
1. Agriculture including: Raising & Keeping Livestock and Tilling of the Soil	N	N	P	N	N	N	Sec. 603-13
2. Customary Farm Operations & Structures	N	N	P	N	N	N	Sec. 603-13
3. Farm Stand for Sale of Produce	SC	SC	SC	N	P	N	Sec. 603-1
4. Greenhouse or Nursery	SC	SC	P	N	P	N	Article VIII
5. Veterinary Clinic/Animal Hospital/ Kennel	N	N	SC	N	P	N	Sec. 603-2X
6. Commercial Riding School/ Stable	N	N	SC	N	P	N	Sec. 603-2X
7. Dwelling, Single Family	P	P	P	N	N	P	Sec. 603-12
8. Dwelling, Two Family	SC	SC	SC	N	N	SC	Sec.603-3
9. Dwelling, Townhouse/ Condominium	SP	SP	SP	N	N	SC	Sec. 603-6X
10. Dwelling, Mobile Home	SC	SC	SC	N	N	SC	Sec. 603-4
11. Conversion of an existing building into a two family dwelling	SP	SP	SP	N	N	SC	Sec. 603-5X
12. Dwelling, Multiple Family	SP	SP	SP	N	N	SC	Sec. 603-6X
13. Hospital/ Nursing Home	SP	SP	SP	N	SC	N	Sec. 603-7X
14. Place of Worship	SC	SC	SC	N	SC	SC	Sec. 603-7X
15. Public or Private School/ Nursery School	SC	SC	SC	N	SC	SC	Sec. 603-7X
16. Library or Museum	SC	SC	SC	N	SC	SC	Sec. 603-7X
17. Community Center/Adult Education & Recreation Center	SC	SC	SC	N	SC	SC	Sec. 603-7X
18. Day Nursery	SC	SC	SC	N	SC	SC	Sec. 603-15
19. Customary Home Occupation	SC	SC	SC	N	N	SC	Sec. 603-8
20. Accessory Uses and Structures including: Noncommercial gardens, Noncommercial Greenhouse, Private Garage, Private Swimming Pool, Private Tennis Courts, Communication Antennas, Storage Sheds.	SC	SC	SC	N	N	SC	Sec. 603-9

LAND USE OR ACTIVITY	W	H	A/R	IPD	CPD	RPD	REFERENCE
21. Landscaping	SC	SC	SC	SC	SC	SC	Attach. A
22. Fence, Wall	SC	SC	SC	SC	SC	SC	Sec. 403/406
23. Off Street Parking	SC	SC	SC	SC	SC	SC	Article VIII
24a. Sign-On Premises	SC	SC	SC	SC	SC	SC	Article IX
24b. Sign-Commercial Off Premises	N	N	N	SP	SP	N	Article IX X
25. Bed & Breakfast/Tourist Home	SP	SP	SP	N	N	SC	Sec. 603-8
26. Club/Lodge	SP	SP	SP	N	P	N	X
27. Medical/Dental Office	SP	SP	SP	N	P	N	X
28. Offices, Business/Professional	SP	SP	SP	N	P	N	X
29. Bank	SP	SP	SP	N	P	N	X
30. Retail & Commercial Business including the Sale of Clothing, Food, Drugs, Sundries, Furniture, Sporting Goods, Gifts, Flowers	SP	SP	SP	N	P	N	X
31. Personal Services such as Barber, Beauty & Tailor Shop	SP	SP	SP	N	P	N	X
32. Repair of Household Items	SP	SP	SP	N	P	N	X
33. Laundry/Self Service Dry Cleaning	SP	SP	SP	N	P	N	X
34. Restaurant	SP	SP	SP	N	P	N	X
35. Artist Studio/Photography Studio	SP	SP	SP	N	P	N	X
36. Auto Sales & Rentals	SP	SP	SP	N	P	N	X
37. Boat Sales & Rentals	SP	SP	SP	N	P	N	X
38. Theater	SP	SP	SP	N	P	N	X
39. Car Wash	SP	SP	SP	N	P	N	X
40. Indoor Recreational Facility	SP	SP	SP	N	P	N	X
41. Outdoor Recreational Facility including Campground	N	N	N	N	P	N	X
42. RV Park/Camp Trailer Park	N	N	N	N	P	N	X
43. Mobile Home Park	N	N	N	N	P	N	Sec. 603-14 X
44. Hotel/Motel	SP	SP	SP	N	SC	N	X
45. Marina	SP	N	SP	N	P	N	X

LAND USE OR ACTIVITY	W	H	A/R	IPD	CPD	RPD	REFERENCE
46. Gasoline Self Service Station	SP	SP	SP	P	P	N	Sec. 603-17 X
47. Gasoline Service Station/ Garage, Commercial	SP	SP	SP	P	P	N	Sec. 603-17 X
48. Production, Processing, Cleaning, Servicing, Testing, Repair or Storage of Materials, Goods or Services	N	N	SP	P	SC	N	Sec. 603-18 X
49. Research, Experimental and Testing Laboratory	N	N	SP	P	SC	N	Sec. 603-18 X
50. Assembly of Optical, Mechanical & Other Equipment	N	N	SP	P	SC	N	Sec. 603-18 X
51. Mining	N	N	SC	SC	N	N	Sec. 603-19 X
52. Forestry	SC	SC	SC	SC	SC	SC	Sec. 603-21
53. Wholesale Storage Warehouse	N	N	SP	P	SC	N	Sec. 603-18 X
54. Delivery and Distribution Center	N	N	SP	P	SC	N	Sec. 603-18 X
55. Dry Cleaning & Dyeing Plant	N	N	SP	P	N	N	Sec. 603-18 X
56. Printing & Publishing Plant	N	N	SP	P	SC	N	Sec. 603-18 X
57. Tavern	SP	SP	SP	N	P	N	Article VIII X
58. Junkyard	N	N	N	P	N	N	Sec. 603-11 X
59. Commercial Storage of Vehicles, Boats, Equipment, Machinery or Household Goods	SP	N	SP	N	P	N	Sec. 603-16 X
60. Public or Private Utility	SC	SC	SC	SC	SC	SC	Sec. 603-10
61. Communication Towers	SP	SP	SP	SP	SP	N	Sec. 603-20 X

## ARTICLE VI SPECIAL CONDITIONS AND SPECIAL PERMITS

### Section 601 Intent

The intent of this Article is to set forth supplemental regulations, procedures and conditions which shall apply to certain land use activities in the Town of Sterling and which are incongruous or sufficiently different in terms of their nature, location, and potential effect on the surrounding environment and the quality of the community, and which warrant special evaluation of each individual case.

### Section 602 Applicability

No zoning permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 506 as having special conditions applicable, (SC) or requiring a special permit (SP) until the Code Enforcement Officer is satisfied that the applicable regulations set forth in this Article VI have been complied with.

### Section 603 Special Conditions

The Code Enforcement Officer shall issue a Zoning Permit for the following uses only when satisfied that applicable special conditions, as set forth in this Section 603 have been complied with, in addition to all other requirements of this Ordinance.

1. **Farm, Nursery, Greenhouse Stand:**
  - a. A farm stand shall not exceed 400 sq. ft. of gross floor area.
  - b. The stand may be in the front yard, but shall not be within the street lines.
  - c. The stand shall not be located within 50 ft. of an intersection.
  - d. Parking for all vehicles shall be provided off the street pavement.
  - e. A farm stand selling produce or plants from a home garden, for the purpose of this law, does not constitute commercial agriculture.
2. **Veterinarian or Animal Hospital, Kennel, or Commercial Riding School or Stable:**
  - a. If in conjunction with a residence, no animals other than pets of the household shall be kept in the residence.
  - b. A kennel or animal hospital shall be designed so that any animals kept therein shall not be an annoyance to any surrounding residences.
  - c. No stable shall be less than 200 feet from any lot line.
3. **Two Family Dwelling:** provided that the lot area per family shall not be less than the minimum lot required for the district in which such lot is situated.
4. **Mobile Home:** subject to the more restrictive regulations of either this law or the existing Mobile Home Ordinance.
5. **Conversions:** one family dwellings converted for occupancy by not more than two families, subject to the following conditions:
  - a. The lot area should not be reduced thereby to less than that required for the district in which such is situated.
  - b. The yard, building area, and other applicable requirements for the district shall not be reduced thereby.
6. **Townhouses, Condominiums and Multiple Family Dwellings:** on a separate lot and containing not more than six (6) units, provided the multiple family dwellings is in character with the surrounding area, and subject to the following provisions:
  - a. **Density.** The overall density of occupancy in any permitted multiple family dwelling development shall not exceed six (6) dwelling units for each lot area.
  - b. **Lot Area.** Any parcel of land development under the terms of this Law shall contain a total minimum lot area of five (5) acres with a width of not less than three hundred (300) feet at the building setback line and street line.
  - c. **Floor Area.** A maximum .141 square feet of floor area shall be permitted for each square foot of land area.
  - d. **Open Space.**
    1. At least 5.5 square feet of lot area per one (1) square floor of floor area shall be open space.
    2. Open space is the total horizontal area of all uncovered and unpaved (non-parking areas) open space. Covered open space is exterior space that is open on its sides to the sky and weather, such as roofed porches, roofed carports, and covered balconies.
  - e. **Recreation Space.**

1. At least .33 square feet of lot area per one (1) square foot of floor space shall be recreation space.
  2. All recreation space counted shall be at least twenty (20) feet away from any residential containing a window on the ground floor and have at least one hundred (100) feet for each dimension, except that an area of lesser dimension is permissible if the total required recreation space is less than 10,000 sq. ft.
  - f. **Sewage Disposal.** All multiple family dwellings shall be connected to public sewer and water, where available.
- 7. Institutional Uses:** Hospital, Nursing Home, Place of Worship, Public or Private School, Library, Museum and Community Center are permitted subject to the following conditions:
- a. Minimum lot size shall be three (3) acres.
  - b. Maximum height shall be fifty (50) feet.
  - c. All buildings shall be not less than one hundred (100) feet from any lot line.
  - d. Completely detached buildings on the same lot shall not be less than twenty (20) feet from one another.
- 8. Customary Home Occupation:** for gain is defined as follows:
- a. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit.
    - (1.) In particular, a home occupation includes the following or similar uses; art studio, home office of a lawyer, engineer, architect, writer, or accountant, beauty parlor or barber shop, dressmaking or tailor shop, handcrafts shop, teaching of not more than four (4) pupils simultaneously.
    - b. Is an accessory use and as such is clearly incidental and secondary to the use of the dwelling for residential purposes.
    - c. Conforms to the following regulations:
      - (1.) There shall be no use of show windows or display of advertising visible outside the premises to attract customers or clients other than home occupation announcement signs under ten (10) sq. ft.
      - (2.) No external alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation, if such in any way alters the residential character of the building.
      - (3.) The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit plus not more than one (1) additional employee.
      - (4.) The area devoted to a home occupation shall not be more than fifty (50) percent of the floor area of the principal residential structure.
- 9. Unattached Accessory Structures** including, but not limited to noncommercial greenhouse, tool shed, private garage or swimming pool shall be erected only in accordance with the following restrictions:
- a. No accessory structure is located closer than twenty (20) feet to the side or rear lot line.
  - b. Every outdoor in ground or above ground swimming pool shall comply with New York State Uniform Fire and Building code Sec. 720.1 and 720.2 Re: Enclosure.
- 10. Public or Private Utilities.** Commercial antenna, micro relay station, transformer station, substation, pumping station, or automatic telephone exchange, subject to the following provisions:
- a. Such public service structure shall be permitted only if it is essential to service such districts.
  - b. Suitable landscaping shall be installed.
  - c. No supporting wires shall be closer than fifty (50) feet to any lot line.
- 11. Junkyard**
- a. No lot nor any part of thereof shall be used for the accumulation of junk or rubbish, nor dumping of refuse or other waste, or discarded material. Any accumulation of three (3) cubic yards of junk, rubbish, or other waste or discarded material shall be presumed to be a violation.
  - b. No lot nor any part thereof shall be used as a junkyard, the outdoor storage of more than two disabled or unlicensed motor vehicles shall be considered in violation of this ordinance. Antique motor vehicles in the process of restoration or restored, will not be judged a violation.
  - c. A commercial junkyard may be established in accordance with the provisions of the "Town of Sterling Junkyard Ordinance".
- 12. Single Dwelling.** No more than one single dwelling per lot. A special permit can be granted by the planning board for installation of a mobile home on a parcel for occupation by an immediate family member, however not for compensation. This permit shall be renewable on a yearly basis for a set fee. The permit shall be canceled when the family member ceases to occupy this mobile home. Within 6 months of the cancellation the mobile home shall be removed and the site restored to original condition. All other

provisions of this law and that of the mobile home law must be followed including lot size requirements. The only acceptable alternative to this would be to subdivide the property. This applies to the A/R districts.

**13. Agriculture**

- a. **Keeping and Raising Livestock.** The limitation on the keeping and raising of livestock shall not apply to household pets, which are allowed in all districts.
- b. **Tilling of the Soil.** Noncommercial gardens are permitted as accessory uses in all districts.
- c. **Agricultural Structures.** To the extent that agricultural structures are exempt from the New York State Fire and Building Code, they shall also be exempt from this local law.

**14. Mobile Home Park, RV or Camp Trailer Park:** Permitted subject to the more restrictive provisions of either this Law or the "Mobile Home or House Trailer Ordinance of the Town of Sterling".

**15. Day Nursery and Nursery Schools** shall comply with New York State Codes for Use.

**16. Commercial Storage** shall mean any storage for compensation.

**17. Commercial Auto Garage and Gas Station** are permitted in accordance with all applicable regulations of this Law and the following:

- a. **Definitions.** As used in this section the following terms have the meanings hereinafter designated.

(1.) **Commercial Auto Garage** means a building or other structure or tract of land used or heretofore used primarily for the servicing of motor vehicles. It may include a retail place of business engaged in the sale of motor fuels, and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, and the sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items; lubrication services and the performance of routine automotive maintenance and repairs.

(2.) **Gasoline self service station** means a building, structure or tract of land used or heretofore used primarily for the dispensing of gasoline by means of an approved console regulating the flow of gasoline into fixed and approved dispensing equipment, thereafter to be operated by the customer. This operation may include facilities for the sale of other retail products as well.

- b. **Regulations**

(1.) All activities except those required to be performed at the fuel pumps shall occur within a completely enclosed building.

(2.) Fuel pumps may be located in a front yard, but no nearer the street than 30 feet.

(3.) All automobile parts, dismantled vehicles, and similar articles shall be stored in a completely enclosed area.

(4.) There shall be controlled ingress and egress to the site.

(5.) There should be adequate landscaping.

**18. Industrial Uses** are subject to the following additional provisions:

- a. The minimum land area shall consist of three (3) contiguous acres.
- b. All industries shall have a buffer strip along the side and rear property lines. Such buffer strips shall be at least twenty-five (25) feet in depth and consist of interlocking trees and foliage acceptable to the Town Planning Board. The maintenance of the buffer strips shall be the continuing obligation of the industry. (See Landscape Section)
- c. No industrial structures or area for the storage of materials or area for the storage of equipment shall be located closer than 25 feet from the street right-of-way or other property line.
- d. A minimum frontage of 250 feet shall be required.
- e. A minimum of one (1) parking space shall be required for each employee, per shift.
- f. Suitable landscaping, including at least lawns and plantings shall be installed, maintained and shall be subject to the approval of the Town Planning Board.
- g. All industrial uses shall be subject to site plan review.
- h. In addition to the above provisions, the Planning Board may, when it deems necessary and pertinent to a full understanding of the scope and nature of a particular proposal, require information regarding the production, emission, or transmission into the general neighborhood of dust, smoke, refuse, odor, gas, fumes, noise, vibration, or similar substance or condition.

**19. Mining and Extraction of Resources**

- a. **Definitions.** As used in this section the following terms have the meanings hereinafter designated.

(1.) **EXCAVATION.** The permanent removal of sand, gravel, stone, ore, earth (including topsoil) or other minerals from the ground. **Excavation** shall also include the movement of earth to changed grades or contours where an area of more than one half (1/2) acre of ground surface is disturbed and

where the depth of the cut or embankment exceeds two (2) feet. Exceptions are listed in Section 215.

(2.) **MINING.** The use of any land or other premises for the extraction of ores or stone from the earth, whether by subterranean or surface digging or other process.

(3.) **QUARRY OPERATION.** The use of any land or other premises for the extraction of, cutting of, crushing, screening, washing or processing of stone or stone like material.

(4.) **SAND OR GRAVEL OPERATION.** The use of any land or other premises for the excavation or removal of sand or gravel there from or for the crushing, screening, washing or processing of sand or gravel in any manner therein.

b. In addition to the application for the use of the land in the Town of Sterling for the purpose of sand, gravel, quarry, mining, or excavation operations complying with this Local Law, the following conditions must be met:

(1.) A New York State Department of Environmental Conservation Permit is required where applicable.

(2.) Evidence must be submitted that the site is served by an adequate highway transportation network suitable to the carrying of the unique traffic to be generated by the proposed operation. Traffic generated by the operation is prohibited in districts where mining is not permitted.

(3.) At no time shall any sand, gravel, quarry, mining, or excavation operation permitted herein be conducted any nearer to any property line or boundary line of any street or roadway than one hundred (100) feet. Note: (if adjacent properties are used for like purposes these requirements may be waived by written consent of the property owners) or within five hundred (500) feet of any structure if structure is not owned by excavating operator.

(4.) Access roads at all points, including but not limited to the main entrance and exit, shall be at least five hundred (500) feet from any existing residence or public building.

(5.) A structural barrier shall be provided to secure the site to achieve public safety. This barrier shall consist of a seven-foot (7') berm along the side, front and back property lines with no opening except necessary gates for egress and ingress along the front property line. All gates shall be closed and locked at all times, except during working hours of such operation or when employees shall be within.

(6.) Hours of operation will be 7 a.m. to 5 p.m. Monday through Friday. Saturday operation will be limited to residential deliveries between the hours of 8 a.m. to 4 p.m. There will be no operating permitted on Sunday or on legally declared holidays.

(7.) Dust. A dust-preventative layer shall be spread on traveled roadways at all operations where required to protect the public and the countryside against windblown sand and dust. All loads shall be covered with no part of the load visible for dust control.

(8.) Annual review of the site reclamation plan to confirm implementation of the plan as each section is mined and ensure reclamation requirements are followed as specified in the mined land reclamation permits issued by the New York State Department of Environmental Conservation.

## 20. Towers

a. **Definitions.** As used in this section the following terms have the meaning hereinafter designated.

(1.) **Commercial Tower.** Includes any tower, edifice, pole, or other structure, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used as or for the transmission and/or reception of radio or telephone frequency signals, such as, but not limited to, broadcast, shortwaves, citizen band, FM, or television signals or wind driven devices, such as energy converters and wind speed and/or direction indicator, excluding residential satellite dishes.

(2.) **Attached Tower.** Includes a tower, which is rigidly attached to a building.

(3.) **Freestanding Tower:** Includes a tower, which is not attached to a building by a rigid member.

(A.) **Class 1 Tower:** Includes a tower, the base of which is set back from the nearest property line, a distance equal to or greater than its overall height.

(B.) **Class 2 Tower:** Includes a tower, the base of which is closer to the nearest property line than a distance equal its height.

b. **Exceptions and Limitations.**

(1.) There shall be a limit of two (2) towers per parcel.

(2.) No person or other entity shall construct a tower without fulfilling the requirements for site plan review and special permit with the following exceptions:

(A.) Preexisting towers, which are physically constructed on the effective date of this Law.

(B.) Attached towers, which do not exceed thirty-five (35) feet above the grade or fifteen (15) feet above the ridge of the roof of the structure to which it is attached, whichever is greater.

c. **Permit Requirements** shall follow standard requirements for site plan review and special permit with the following additions:

(1.) Each applicant for a Class 1 or Class 2 tower shall provide a complete plan drawn to scale, showing the location of the tower on the site; the location of all structures, power lines or other utility lines within a radius equal to the proposed tower height; dimensions and sizes of the various structural components of the tower's construction; design data which shall indicate the basis of the design; and certification that the tower was designed to withstand wind and ice load requirements for structures as set forth in the New York State Uniform Fire Prevention and Building Code.

(2.) Where the applicant is not the owner or a contract vendee of the premises, the application shall also be accompanied by the original, or a true and complete copy of the lease of the premises consenting to the construction of the tower on the premises. All limitations that refer to the property lines within the case of leased property become the lines of the area leased, not the total area of the owner's premises.

d. **Maintenance and Safety** permits and approvals issued hereunder may prescribe reasonable rules and regulations for the maintenance and safety of such towers.

e. **Location Guy Wires** and anchors for towers shall not be located less than ten (10) feet from any property line(s) or street right of way.

f. **Height Limitations** the following height limitations shall apply to the construction of any tower:

(1.) Attached towers in the hamlet and waterfront districts which are attached to the roof of a structure shall not exceed thirty-five (35) feet above the grade or fifteen (15) feet above the ridge of said roof, whichever is greater. These restrictions do not pertain to the ground based attached towers.

(2.) Class 1 towers in all areas shall not exceed a total height of one hundred fifty (150) feet from the ground to the top of the tower.

(3.) Class 2 towers in all areas shall not exceed a total height, from the ground to the top of the tower, of twice the minimum distance from the centerline of the tower's structure to the nearest property line or a maximum of one hundred (100) feet.

(4.) The height of the tower for the purposes herein shall include the height of any device affixed to the tower.

g. **Fees:** The applicant for a tower permit shall, at the time of issuance of any such permit, pay to the Town Clerk a fee, which shall be determined by the Town Board and listed in the schedule of fees.

h. **Right of Entry and Inspection:** The Code Enforcement Officer of the Town of Sterling, or his designee, or a registered professional engineer retained by the Town, shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which said tower has been constructed to inspect all parts of said tower installation and require that repairs or alterations be made if, in his or her judgement, there exists a deficiency in the structural stability of said tower. However, it shall not be required that the owner or his agent be present in the event of an emergency situation involving danger to life, limb or property.

## 21. **Forestry**

a. **Definition of Uses** include and are limited to on site harvesting and cutting of trees, logging operations, and selected clearing or cutting of vegetation. Processing, milling, storage or other manufacturing or sales operations associated with forestry shall be included under commercial or industrial operations.

b. **Vegetative cutting (logging)** adjacent to streambeds shall follow the best management practices (BMP) guidelines established by the New York State Department of Environmental Conservation.

c. **Landscaping.** Selected clearing and cutting of vegetation for landscaping purposes is permitted in all districts without permit.

## ARTICLE VII PLANNED DEVELOPMENT DISTRICTS

### Section 701 Purpose

In planned development districts (PDD) land and buildings may be used for any lawful purpose in any districts as authorized by the Town Board in specific instances. The purpose of the PDD is to provide flexible land use and design regulations through the use of performance criteria and land impact considerations, so that developments incorporating individual building sites, common property, singular land use, and/or mixed land uses may be planned and development as a unit. Where deemed appropriate, the Town Board may consider a proposed planned development through an approval process requiring a zoning district change

from the original district to PDD, in which the approved plan and a complete set of use and dimensional regulations become the basis for continuing land use controls.

## **Section 702 Objectives**

In order to carry out the purpose of this article, a PDD shall achieve at least the following objectives:

- a. Work as a concentrated whole unit, being self-contained and un-conductive to expansion outside its boundaries at a future date, unless such expansion when added to the original PDD can act with it to create a large self-contained unit.
- b. Provide open space as an integral part of the plan.
- c. Provide convenient location of commercial and service areas.
- d. Preserve trees, outstanding natural topography and geologic features under legal option to purchase by the applicant who may be a single person, corporation, or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
- e. Make creative use of land and related physical development, which allows an orderly transition of land from rural to more urban uses.
- f. Make efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs for construction, maintenance and housing.
- g. Provide a development pattern in harmony with the objectives of the Town and County master plans.
- h. Provide a more desirable environment for dwelling, working and/or recreation than would be possible through the strict application of the regulations in this local ordinance.

## **Section 703 General Requirements**

- A. **Minimum Area.** Under normal circumstances, the minimum area requirements for a PDD shall be as stated in Article IV.
- B. **Ownership.** That tract of land for the PDD shall be owned or under legal option to purchase by the applicant who may be a single person, corporation, or a group of individuals or corporations. The application shall be filed by the owner or jointly by the owners of all property included in the PDD. In the case of multiple owners, the approved plan shall be binding on all owners.
- C. **Location.** The PDD shall be applicable to any area of the Town of Sterling where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article and the spirit of this local ordinance. A PDD proposal must demonstrate compatibility with the surrounding land uses neighborhood character, and traffic pattern, capacity and volume.
- D. **Permitted Uses:** The use of land buildings in a PDD may be for any lawful purpose as authorized by the Town Board in accordance with the procedures of this article; the following general uses, or combinations thereof, may be considered:
  1. **Residential Planned Development (RPD)**
    - a. **Residential Uses.** Residences may be a variety of types. In developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with the objectives of this article and the applicant shall demonstrate that he is reaching as abroad an economic market as possible.
    - b. **Commercial, service and other non-residential uses** in primarily residential PDD. These uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the residential PDD. Consideration shall be given to the project as it exists in its larger setting in determining the appropriateness of such uses. In no case shall more than twenty-five (25) percent of the gross site area be permitted for commercial uses, services, or non-residential uses other than open space and non-profit recreation.
  2. **Commercial Planned Development (CPD)**
    - a. **Commercial uses.** If designed and organized toward the purposes and objectives of the article, a PDD with commercial uses as the major land use may be approved. All proposed shopping centers in the town shall be subject to approval through the PDD procedures.
  3. **Industrial Planned Development (IPD)**
    - a. **Industrial uses.** If designed and organized toward the purposes and objectives of this article, a PDD with industrial uses as the major land use may be approved. All proposed industrial developments for the Town of Sterling shall be subject to approval through the PDD procedures. Industrial uses shall not be permitted in combination with any residential uses.

E. **Intensity of Land use.** Relatively high land use intensity or dwelling unit density may be permitted if it is demonstrated that a good overall dwelling, working and/or recreational environment is thereby produced. In determining the suitability of land use intensity or dwelling unit proposed for a PDD, each use shall be considered separately. Proposed land use intensity ratings and/or dwelling unit densities shall be completely documented by all facts, opinions, and judgments, used to justify the selections of the intensity rate or unit density.

F. **Common Property.** Common property in a PDD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites. When common property exists (and such may be required), the ownership of such common property may be either public or private; when common property exists in private ownership satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities thereon, including but not limited to private streets, drives, service and parking areas, open space and recreation areas.

#### **Section 704 Application Procedures for PDD Approval**

For full approval of a proposed PDD the applicant shall secure a zoning district change for his property from its present district to planned development district, which process shall be that of amending the zoning law and map to include the proposed PDD plan and all the related specifications, and use and dimensional regulations specific thereto:

1. It shall be required that the subdivision and platting of all lands in the proposed PDD be subject to **Section 703** of this Law.
2. Before construction and occupancy of buildings or land, the proper permits shall be secured by the applicant in accordance with this local law.

**When any PDD is proposed before any permit for erection of a permanent building in such PDD shall be granted, and before any subdivision plat or any part thereof may be filed in the Cayuga County Clerk's Office, the applicant or his authorized agent shall apply for and secure approval of such PDD in accordance with the following specific procedures:**

a. **Pre-application discussion stage.** Proper to formal application the applicant shall present the proposed PDD to the Town Planning Board in rough sketch and written descriptive form to get the initial opinions concerning the suitability of the concepts, and general elements of the development, and to make sure the required procedures for the PDD application are fully understood by the applicant. In this stage it is advised that most of the items in **Section 703** be addressed at least in rough form by the applicant. No approval at this stage shall be considered binding.

b. **Application for PDD zoning.** Application for the establishment of a PDD shall be made to the Town Board in plan (drawn to scale) and written report form. Prior to the Town Board action, to insure that the proposed PDD is within the intent of the comprehensive planning activities of the town, the Town Board shall immediately after receiving the application refer it for the purpose of review and recommendations to the Town Planning Board which shall have thirty (30) days from its next regularly scheduled meeting within which to report. As deemed appropriate, either the Town Board of the Town Planning Board may submit the PDD application to the Cayuga County Planning Board for an informal review. As applicable in accordance with Section 239 L and M of Article 12-b of the New York State General Municipal Law, the Town Board shall refer the PDD application for formal review and recommendation to the Cayuga County Planning Board which shall have thirty (30) days or an agreed upon longer period from its next regularly scheduled meeting within which to submit its report the Town Planning board. If either Planning Board does not report to the Town Board within the specified time period, their inaction shall be construed as them having no recommendations.

c. **Public Hearing.** Within sixty-two (62) days after receiving a report from the Town Planning Board, the Town Board shall schedule and conduct a public hearing for the purpose of considering the change in zoning district to PDD for the applicants plan in accordance with the procedures required under **Section 265 of the New York State Town Law.**

d. **Town Board Action.** Within sixty-two (62) days after a public hearing, the Town Board shall render its decision on the PDD application. If the Town Board grants the PDD zoning, the zoning map shall be so noted, and the local Law shall be amended in order to define the legal boundaries of the PDD, but such action shall have effect only of granting permission for development of the specific proposed land uses in accordance with the use and dimensional specification, plans and related materials filed with the Town Board and related to the specific PDD; such specifications, plans and related materials to include, if deemed necessary by the Town Board to protect the public health, safety and welfare of the Town, any conditions and requirements for the applicant to meet. The approved plan and the related attachments shall be deemed an amendment to

this local law and shall serve as continuing land use controls for the specific planned development district; the first such zoned PDD shall be designated "PDD 1", with subsequent unrelated planned development district to be numbered in continuing sequence.

e. **Annual Review of PDD.** During the development stages, the Town Board shall review the PDD annually in order to determine the amount and quality of the progress made by the developer toward fulfilling the specifications and plans and any attached conditions. Based upon the progress made by the developer, the Town Board may reconsider the PDD and further amend the local law in relation to it if progress is not to the satisfaction of the Town Board or not in keeping with the staging approved by the Town Board.

### **Section 705 Minimum Plan Requirements.**

In order for the Town Board to adequately evaluate the PDD proposal, the application (in its plan and written report form) shall address the following areas, and the information shall be furnished therein in a reasonably complete manner.

1. **Project particulars.** Shall include the name and location of the project, name(s) and address(es) of the owner(s); a legal description of the property; the names of the owners of abutting properties.
2. **Type of Development.** The type of development shall be fully described, including at least the following information:
  - a. **Residential.** Total acreage of residential area and each residential portion of the development; total number of dwelling units and number in each residential portion; percentage and numbers of dwelling units by type (single, family, garden apartment, townhouses, etc.), dwelling unit density per gross site acreage; estimated population of the development and estimated number of school age children.
  - b. **Commercial.** Total acreage of commercial area; gross leasable floor area in square feet; general description of commercial types and their general requirements for receiving and delivering goods.
  - c. **Industrial.** The total acreage of industrial area; types of industry and industrial processes involved; source, type general quantities and method of shipment for raw materials; general quantities and method of shipment for products; types of wastes and residuals.
3. **Staging of Development.** A description of the staging in the plan and in the written report of the project shall be required.
4. **Natural Site.** A description of the natural site shall be included with at least the following information; soil characteristics and limitations; extent of the treatment intended for the site's vegetative cover (especially trees); topographical features (on topographic map at 10 foot contour intervals; existing and proposed site drainage; foreseeable needs of the site for construction precautions; the projected effects upon the ground and surface waters of the site and community; possible air pollution hazards.
5. **Site planning and design considerations.** Descriptions and illustrations of the following; site ingress and egress; parking; on site pedestrian and vehicular circulation; general landscaping treatment (see landscape section); general location and arrangement of buildings and other structures; refuse storage and removable facilities; locations of all facilities, including public and private and general visual description.
6. **Transportation and traffic.** Descriptions of at least the following; existing streets serving the area; level of service provided by existing streets in terms of traffic counts and street traffic capacities; expected modifications for existing street systems required by project; estimated daily automobile trips generated by the residential and other uses; availability of public transportation to site; design consideration for deterring on site and area traffic congestion.
7. **General Market Information.** Describe the need for the proposed land uses in their proposed locations and their proposed quantities; and the intended market structure for the residential units (prices and rents, describe whether low-income, middle-income, luxury, etc.)
8. **Projected Fiscal Impact on the Town.** Calculations of projected town revenues and costs to be expected by the town as a result of the proposed development.
9. **Utilities and related services.** Describe the following and detail their intended locations on the plan(s) the method and projected quantities of waste water (sewage) from the development; demand and source of supply for water; level of service needed and available for fire protection; demands for and availability of gas and electricity; projected quantities of and method of disposal for solid wastes.
10. **General effects of development on neighborhood and community appearance and land use** Description of effects on the appearance; relationship of project predominant character and land use in area (compatibility); potential noise above ambient level; obnoxious or objectionable odors.

11. **Relationship of proposed PDD to official town and county development policies.** Information on how the proposed PDD relates to the local and area-wide goals and policies as stated in plans and regulations.
12. **Development, operation and maintenance of open space and common properties.** A general statement concerning the responsibility for these and proposed methods for their implementations.
13. **Developer competence.** Evidence in the applicant's behalf to demonstrate his competence to carry out plan and his awareness of the scope of the project, physical and financial.
14. **Other.** Any other such information as the Town Board deems to be reasonably pertinent to the adequate consideration and evaluation of the proposed project.

## **Section 706      Subdivision Plat Approval**

If any portion of a PDD property is intended for sale or other form of transfer, whether immediate or future, the development shall be considered a subdivision of land and shall be subject to the "Subdivision Regulations of the Town of Sterling"; where the requirements and the specifications of the subdivision regulations are in conflict with the PDD plan approved by the Town Board the approved plan shall take precedence.

## **Article VIII      Off-Street Parking and Loading**

### **Section 801      Required Off-Street Parking and Loading Spaces**

- a. **Parking Space.** The following off-street parking provisions constitute the minimum space required for the following buildings and uses hereafter erected, converted, or otherwise established in any district.
  1. One Family Detached Dwelling, Two Family Dwelling and Individual Mobile Home. Two (2) off-street parking spaces for each dwelling unit.
  2. Multiple Family Dwelling and Mobile Home in Mobile Home Park. One and one-half (1½) parking spaces for each dwelling unit. Senior Citizen Housing. One (1) parking space for each dwelling unit plus two visitor parking spaces.
  3. Motel, Hotel. One and one half (1½) off-street parking space for each rental room or suite to accommodate boats on trailers with the potential for larger turnarounds, plus one (1) additional space for each full-time employee on the premises at one time.
  4. Eating or Drinking Establishment. One (1) off-street parking space for each fifty (50) square feet of floor area devoted to customer uses, plus one (1) additional space for each full-time employee on the premises at one time.
  5. Church, Library and Fire Station. One (1) off-street parking space for every four (4) seats provided for patrons, customers, members or guests, plus one (1) additional space for each full-time employee on the premises at one time.
    - I. Where places of public assembly are provided with benches rather than fixed undivided seats, each two lineal feet of bench equal one seat.
    - II. Where no fixed seats are used, each fifty (50) square feet of floor area shall equal one seat.
  6. Retail and Office uses. One (1) off-street parking space for each hundred (100) square feet of gross floor area.
  7. Institutions. One (1) off-street parking space for each patient or resident bed (excluding bassinets), plus one (1) space for each full-time employee on the premises at one time. However, hospitals, sanitariums, or convalescent home primarily providing long term custodian care for patients need not provide more than one (1) space for each four (4) patient beds.
  8. Home Occupation. Two (2) off-street parking spaces in addition to the requirement for the dwelling. In addition Bed and Breakfast establishments must have one and one-half (1½) parking spaces for each rental room with adequate turnaround space to accommodate boats on trailers.
  9. Agricultural, Nursery and Greenhouse Establishment. One (1) off-street parking space for each one hundred (100) square feet of area occupied by the stand, but in no case fewer than three (3) such spaces.
  10. **Loading and Unloading Space.** Off street loading and unloading space sufficient to accommodate the maximum demand generated by the use of the lot, shall be provided on any lot on which a building for commercial use is hereafter erected or

substantially altered. All off-street loading and unloading spaces shall provide safe and convenient access and use during all seasons.

**Section 802 Design of Off-Street Parking and Loading Facilities**

- a. All parking and loading facilities provided under this article shall be located off the public right-of-way and shall contain an area of at least two hundred (200) square feet per automobile parking space exclusive of access ways, aisles, and maneuvering space. Each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete or blacktop.
- b. Two or more establishments may join in meeting the requirements of the Article, provided that the total area for parking is the sum of the individual requirements.
- c. Driveways and parking areas for nonresidential uses except home occupation shall include, within the property lines, turning areas so constructed and surfaces that a vehicle entering or leaving the property is not required to back onto the street.
- d. All illumination on parking lots shall be shielded so as not to intrude upon abutting properties.

**ARTICLE IX SIGNS**

**Section 900 Definition of “Sign”**

Sign shall mean and include any permanent or temporary structure or part thereof, or any device attached, painted, or represented or indirectly on a structure or other outdoor surface that shall display or include any letter, word, insignia, flag, or representation used as, or which is in the nature of, an advertisement, announcement, visual communication, direction, or is designated to attract the eye to bring the subject to the attention of the public.

- a. **On Premises Signs.** A sign which directs attention to a person, product, business, industry, profession, home occupation, or activity conducted on the same lot.
- b. **Off Premises Signs.** A sign which directs attention to a person, product, business, industry, profession, home occupation, or activity not conducted on the same lot. Off premises signs that remunerate the lot owner shall be considered a commercial activity.

**Section 901 General Sign Regulation**

The following requirements shall apply to all signs unless noted otherwise.

- a. No sign shall have flashing animated or intermittent illumination.
- b. No sign shall be located within ten (10) feet of any side property line.
- c. All signs over sixteen (16) square feet in area except government signs shall require issuance of a zoning permit before erection or replacement. All signs must comply with all of the regulations contained herein, irrespective of whether a permit is required.
- d. All signs except temporary signs shall be constructed of durable material and kept in good condition and repair.
- e. Signs shall not be permitted which block any State, County or Town safety or informational signs.
- f. Temporary signs are permitted announcing a campaign, drive, or event of a civic, philanthropic, educational, or religious organizations. Such signs shall be removed within two (2) weeks upon completion of the campaign, drive or event.
- g. Memorial signs or tablets shall be permitted in all districts.
- h. Business signs are permitted as follows:
  - 1. Signs attached to the exterior of a building, provided the total area of all such signs shall not exceed two (2) square foot for each linear foot of front building wall.
  - 2. One (1) freestanding sign for each street frontage of a lot provided that the total area of such sign shall not exceed one (1) square foot for each linear foot of lot frontage to a maximum of one hundred (100) square feet.
  - 3. Special temporary promotional devices, signs or displays such as banners, pennants, or balloons.
  - 4. Home Occupation signs of not more than ten (10) square feet.
- i. No sign shall exceed the maximum height requirements in any district.

- j. Nonconforming signs once removed, must be replaced with conforming signs, however, nonconforming signs may be repainted or repaired provided that such repainted or repaired sign does not exceed the dimensions of the existing sign.
- k. Where the sign consists of individual letters or symbols attached to, printed or painted on a surface, building, walls, awnings or windows, the sign area shall be considered to be that of the smallest rectangle, which encompasses all the letters and symbols.

**ARTICLE X NON CONFORMITIES**

**Section 1001 Definitions**

- a. **Nonconforming Structure or Lot.** A structure or lot that does not conform to a dimensional regulation prescribed herein for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this Law and was lawful at the time it was established.
- b. **Nonconforming Use.** A use of a building or lot that does not conform to a use regulation prescribed herein for the district in which it is located, but which was in existence at the effective date of this Law and was lawful at the time it was established.

**Section 1002 Continuation**

The lawful use of any structure or land existing at the effective time of this local law may be continued although such use does not conform with the provisions herein except as otherwise provided in this article.

**Section 1003 Alteration or Extension**

- a. A use of land or structure which does not conform to the regulations herein shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions.
  - 1. Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became nonconforming.
  - 2. Any increase in volume, area, or extent of the nonconforming use or structure shall be allowed, so long as the expansion does not increase the degree of non conformity.
  - 3. Fore purposes of this section “volume” does not mean volume of business but rather an increase of cubic volume within a structure.
- b. A structure which does not conform to the regulations herein my be altered, reconstructed, or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it becomes a nonconformity, provided that if the use of structure also falls under paragraph (a) above of this section any change shall be subject to the provisions of that paragraph.

**Section 1004 Restoration**

No structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired, reconstructed, or used except in conformity with the regulations of this Law. Structure with damage to the extent of seventy-five (75) percent or less of the fair market value may be reconstructed, repaired or used for the same nonconforming use subject to the following provisions:

- a. The reconstructed structure shall not exceed the height, area, or volume of the damaged structure.
- b. Reconstruction shall begin within six (6) months from the date of damage and shall be carried on without interruption.

**Section 1005 Discontinuance of Non-Conformity**

Whenever a nonconforming use has been discontinued for two (2) continuous years, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Law.

**Section 1006 Changes**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only under the following conditions:

- a. Such changes shall be permitted only by special permit, under the provisions of Article XIV.
- b. The applicant shall show that the nonconforming use is located.
- c. The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:
  1. Traffic generation and congestion including truck, passenger car, and pedestrian traffic.
  2. Noise, smoke, dust, noxious matter, heat, glare, vibration.
  3. Storage and waste disposal.
  4. Appearance.

#### **Section 1007 Displacement**

No conforming use shall be extended to displace a conforming use.

#### **Section 1008 District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

#### **Section 1009 Zoning Permit Required**

Zoning and building permits shall be issued by the Code Enforcement Officer for lawful nonconforming uses existing at the effective date of this enactment. The zoning/building permit shall include a statement that the use is nonconforming and shall list the specific conditions under which said use may continue. It shall be signed by both the officer and the owner.

### **ARTICLE XI NATURAL RESOURCE PROTECTION OVERLAYS**

#### **Section 1100 Natural Resource Protection Overlay Districts**

- a. Purpose
  1. Natural resource protection overlay districts provide special controls over land development areas where standard zoning controls are not adequate to protect vital environmental features and resources. The purpose of this section is to minimize or assist in minimizing adverse impacts on natural resources which can lead to decreased property values, increased public costs, and possible irreversible loss of such resources.
  2. The intent of this section is not to restrict the general development of the Town of Sterling, but rather to allow for reasonable uses which complement the natural and visual character of the Town and guide land use proposals into areas where they can enhance the general welfare of the community.
  3. Regulations associated with overlay districts do not replace, but rather supplement other zoning district provisions. Natural resource protection overlay districts are superimposed upon other zoning districts and represent an additional level of review and regulation specific to the protection of identified environmental features.
- b. Permitted Uses. Where land is included in one or more natural resource overlay districts, permitted uses shall be those permitted by the underlying district (the district which is not an overlay district) subject to the regulations and restrictions of the underlying district in addition to the regulations and restrictions of the overlay district(s). Whenever a requirement of one district in which land is included is at variance with a requirement of any other district in which the same land is included, the most restrictive requirement, or that imposing the higher standards, shall govern.

#### **Section 1101 Flood Hazard Area Overlay (FHO) District**

- a. Definition

1. Flood Hazard Area-The area where there is a one percent (1%) or greater chance of flooding in a given year. It is also commonly referred to as the 100-year floodplain.
- b. Purpose
  1. Flood conditions can cause damage and other losses, which adversely affect the public health, safety and welfare. Flood losses are attributable to the cumulative effect of obstruction in the flood plain causing increases in flood elevations and velocities and by the presence in the flood hazard area of uses, which are inadequately elevated, flood proofed, or otherwise protected. The purpose of the flood hazard overlay district is to assist in controlling the alteration of natural flood plains and help minimize the potential for public and private losses due to flood conditions.
- c. District Boundaries
  1. The flood hazard area overlay district shall include all flood hazard areas located within the jurisdiction of the Town of Sterling. These include all areas of special flood hazard as shown in zoning map overlay # and as further identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Study. The Flood Insurance Study and its accompanying maps are hereby adopted by reference and declared to be part of this chapter. The Flood Insurance Study and its accompanying maps shall be on file in the office of the Town Clerk.
- d. Regulations
  1. Development within the flood hazard area is regulated by restrictions required under the Emergency Management Agency (FEMA). Whenever development within the flood hazard area is proposed, no structure shall be constructed, located, extended, converted or altered and no land excavated or filled until a Floodplain Building Permit has been obtained from the Code Enforcement Officer. The Code Enforcement Officer issues such a permit only after determining from a review of permit application materials that the development standards and other requirements of the local law have been met.
- e. Subdivisions
  1. No subdivision plat or site plan relating to a proposal involving development within the flood hazard area overlay district may be approved by the Planning Board until the Code Enforcement Officer has reviewed the proposal and provided the Planning Board with a letter indicating intent to issue the necessary Floodplain Building Permit(s).

**Section 1102 Freshwater Wetlands Overlay (FWO) District**

- a. Definition
  1. Freshwater Wetlands-bogs, marshes, swamps, wet meadows, and other areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- b. Purpose
  1. Freshwater wetlands serve many natural functions, which promote and protect the public health, safety and general welfare. They play a vital role in flood damage prevention, maintaining groundwater supplies, pollution treatment, erosion control, and maintaining the ecological balance in freshwater systems. Wetlands also provide critical wildlife habitat, recreational opportunities, and outdoor classrooms for scientific research and education. The purpose of the freshwater wetlands overlay district is to assist in the preservation, protection and conservation of freshwater wetlands and the benefits derived there from, consistent with the general welfare and beneficial to the economic, social and agricultural development of the Town of Sterling.
- c. District Boundaries
  1. The freshwater wetlands overlay district includes all freshwater wetlands located within the jurisdiction of the Town of Sterling which are larger than 5 hectares (approximately 12.4 acres) in area as well as any smaller wetlands of “unusual local importance”. Such wetlands are designated as “regulated wetlands” by the New York State Department of Environmental Conservation (DEC). The district includes all areas within 100 feet of such wetlands. These include all regulated wetlands identified in the zoning overlay map # \_\_\_ which is hereby adopted by reference and declared to be part of this chapter. Map # \_\_\_ shall be on file in the office of the Town Clerk.

- d. Regulations
  - 1. Regulated wetlands are protected by the State Freshwater Wetlands Act (article 24 and title 23 of article 71 of the Environmental Conservation Law). A Freshwater Wetland Permit is required from the DEC for draining, dredging, grading, excavating, filling, placing of obstructions, or conducting any other activity that might substantially impair wetland benefits in or within 100 feet of a related wetland.
  - 2. Applicants should also be aware that areas not include in freshwater wetlands overlay district may be protected by federal laws relating to wetlands. These laws include the U.S. Clean Water Act, the River and Harbor Act of 1899, and the Marine Protection Research Sanctuaries Act of 1972. Under federal regulations applicable to freshwater wetlands, all wetlands, regardless of size, are considered to be equally deserving of protection from the placement of dredged or fill material into those wetlands. These wetlands may be smaller than the 5 hectare or larger wetlands include in the freshwater wetlands overlay district and protected by New York State Regulations, and may also include linear (stream or tributary) wetlands.
  - 3. Although DEC and Corps of Engineers have a joint wetland permit application agreement, any given wetland may require submission of separate state and federal wetland permit applications. Issuance of a wetland permit by the DEC does not guarantee that a permit will be issued by the Corps of Engineers and vice versa.

**Section 1103 Coastal Erosion Hazard Overlay (CEHO) District**

- a. Definitions
  - 1. Coastlines and Coastal Waters- The lands adjacent to the Town’s coastal waters. Coastal waters in the Town of Sterling are Lake Ontario and the connecting water bodies, bays, harbors, shallows, and marshes.
  - 2. Erosion Hazard Area-An area of the coastline, which is a structural hazard area, or a natural protective feature area.
- b. Purpose
  - 1. Coastal erosion hazard areas are prone to erosion from wave action, currents running along shore, and wind driven water and ice. This can cause extensive damage to public and privately owned property, and to natural resources, as well as endangering human lives. The purpose of the Coastal Erosion Hazard Overlay District is to protect and prevent damage to structures from coastal flooding and erosion, and to protect natural protective features and other natural resources.
- c. District Boundaries
 

The Coastal Erosion Hazard Overlay District includes land and water areas within the Town of Sterling based on shoreline recession rates or the location of natural protective features. These boundaries are established by the New York State Department of Environmental Conservation (DEC). These areas are identified in the zoning overlay map # \_\_\_ and shall be on file in the office of the Town Clerk.
- d. Regulations
  - 1. No person may engage in any regulated activity in a Coastal Erosion Hazard Area without first obtaining a Coastal Erosion Hazard Permit. No Coastal Erosion Management Permit is required for unregulated activities.
  - 2. Proposed regulated activities will be permitted only when they are reasonable and necessary, considering reasonable alternatives, and to the extent that the proposed activity requires a shoreline location. The proposed regulated activity should not be likely to cause a measurable increase in erosion at the proposed site and at other locations. The proposed regulated activity should prevent, if possible, or minimize adverse effects on natural protective features and their functions and protective values, existing erosion protection structures, and natural resources.

**Section 1104 Steep Slopes Overlay (SSO) District**

- a. Definitions
  - 1. Slope-the amount or degree of variation from the horizontal of an inclined surface.

2. Steep Slope-a portion of ground having a slope of 15% (15 feet of vertical distance for each 100 feet of horizontal distance) or greater.
- b. Purpose  
The purpose of the steep slopes overlay district is to protect environmental resources, the aesthetic qualities of lands, and the public health, safety and general welfare by guarding against problems, which can result from the disturbance of steep slopes. Such problems include accelerated runoff, intensified erosion, silting of lower lying areas, slide damage, flooding problems and on site disposal (septic system) problems.
  - c. District Boundaries  
The steep slopes overlay district shall include all land with a slope of a 15 percent or greater as determined by a topographic survey. When an applicant contemplates activities in an area which either the applicant or the Code Enforcement Officer (or the Planning Board, as appropriate) suspects might contain steep slopes, the applicant shall be required to determine the boundaries of the steep slopes overlay district through the performance of a topographic field survey applying the steep slope definition. Delineation of steep slopes shall be performed in accordance with any other procedures the Code Enforcement Officer or the Planning Board, as appropriate, may specify. Evidence documenting the results of the boundary survey may also be required.
  - d. Design and Siting of Structures  
Structures in the steep slopes overlay district shall be situated and designed to adapt to the natural hillside topography and retain the visual character of the site and the aesthetic qualities of the area.
  - e. Disturbance of Excessively Steep Slopes  
Disturbance of slope area of 25 percent (25 feet of vertical distance for each 100 feet of horizontal distance) or more shall be avoided whenever possible. When a building is proposed to be constructed in a slope area of 25 percent or greater, the Code Enforcement Officer shall require a statement prepared by a registered architect or engineer providing an explanation of the building methods to be used in overcoming foundation and other structural problems created by steep slope conditions.
  - f. Vegetation  
Existing vegetation shall be maintained wherever possible. If removal of vegetation is necessary, the site shall be replanted with self-sufficient plant materials that are compatible with surrounding vegetation.
  - g. Erosion and Sediment Control  
The quantity of runoff during and after development shall not be substantially altered from predevelopment conditions.

## **ARTICLE XII ADMINISTRATION**

### **Section 1201 Code Enforcement Officer-Duties and Powers**

The provisions herein shall be administered and enforced by the Code Enforcement Officer whom shall be appointed by the Town Board. It shall be the duty of the Officer and he shall have the power to:

- a. Receive and examine applications for Zoning/Building Permits and to refer application to the Planning Board for review and recommendation, when deemed advisable.
- b. Issue Zoning/Building Permits after approval and certification of occupancy when there is compliance with the provisions of this Law and with other Town local laws provided, however, the issuance of a Zoning/Building Permit shall not be deemed a waiver of the requirements of any Town ordinance or local law.
- c. Receive applications for special permits and forward these applications to the Town Board for action thereon.
- d. Following refusal of a permit, to receive applications for appeals from alleged error of the Officer and variances and forward these applications to the Board of Appeals for action thereon within three (3) days.
- e. Conduct inspection and surveys to determine compliance or noncompliance with the terms of this law.
- f. Issue stop, cease and desist orders, and order in writing the correction of all conditions found to be in violation of the provisions of this Law. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Officer to be violating the terms of this Law.

- g. With the approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct, or abate such violation, so as to prevent occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
- h. Revoke by order, a Zoning/Building Permit issued under a mistake of fact or contrary to the Law or provisions of this Law.
- i. Maintain a map showing the correct zoning classifications of all land.
- j. Upon request of the Town Board, the Planning Board or the Zoning Board of Appeals, present to such bodies facts, records, or reports which they request to assist them in making decisions.

**Section 1202 Zoning/Building Permits**

No structure shall be erected, constructed, extended or moved; and no land or building changes in use, until a Zoning/Building Permit has been secured from the Officer. Upon completion of changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Officer of such completion.

No permit shall be considered as complete or as permanently effective until the Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Law and any applicable county state and federal codes.

Zoning/Building Permits shall not be required for general maintenance work, painting, clearing woodlands, tilling the soil, raising animals, constructing fences, terraces, steps small storage sheds, or other similar features, landscaping. All such activities, however, shall conform to the requirements of this Law.

Zoning/Building Permits shall be issued with a one (1) year life, renewable for two (2) consecutive years, provided however, that if the work is not commenced within six (6) months after the issuance of the Zoning/Building Permit, the permit shall automatically expire and a new permit shall be required before such work or change in uses commences.

**Section 1203 Special Provisions for Issuance of Zoning/Building Permits in Areas Designated as Flood Hazard Areas**

- a. The Officer when reviewing applications for Zoning/Building Permits in these areas of any district, including plans and specifications for the proposed construction, shall in addition to the regular duties, review all Zoning/Building Permit applications to determine if the proposed construction is consistent with the need to minimize flood damage.
- b. The Officer shall review all Zoning/Building Permit applications to determine if the site of the proposed construction is reasonably safe from flooding and to make recommendations for construction in all locations which have flood hazards.
- c. The Officer in reviewing all applications for construction in flood hazard locations within the Town shall require that any such proposed construction shall:
  - 1. Be designed and anchored to prevent the flotation, collapse, or lateral movement of the structure or portions of the structure due to flooding.
  - 2. Use construction materials and utility equipment that are resistant to flood damage.
  - 3. Use construction methods and practices that will minimize flood damage.
  - 4. Provide adequate drainage in order to reduce exposure to flood hazard.
  - 5. Locate public utilities and facilities on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage, such utilities and facilities including sewer, gas, electrical and water systems.

**Section 1204 Certification of Occupancy**

No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Officer stating that the buildings or proposed use thereof complies with the provisions of this Law of the Town of Sterling.

**Section 1205 Application Requirements for Zoning/Building Permits**

- a. All applications for Zoning/Building Permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent, on a form supplied by the Town, and shall be filed with the Officer. The application shall:
  1. Include a statement as to the proposed use of the building or land.
  2. Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structure or land uses and any existing buildings in relation to property and street lines.
  3. Include the number, location and design of parking spaces, if applicable.
  4. Include the size, dimensions, location and methods of illumination for signs, if applicable.
  5. Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with provisions of this Law.
- b. A permit for any new use or construction which will involve the on site disposal of sewage or waste, or a change in use or alteration which will result in an increased volume of sewage or waste to be disposed of on the site, or which will require a new or modified water supply, shall not be issued until a certificate of approval has been issued by the Cayuga County Health Department

**Section 1206 Issuance of Zoning/Building Permits**

Zoning/Building Permits shall be granted or refused within fifteen (15) days after the written application has been filed with the Officer except as provided elsewhere therein. Upon completion of the activity authorized by any Zoning/Building Permit, the holder of such permit shall notify the Code Enforcement Officer of such completion.

All applications with accompanying plans and documents shall become, and be preserved, as public record, subject to the disposition of the Town Board.

**Section 1207 Fees**

The applicant, at the time of application for a Zoning/Building Permit, shall pay to the appropriate Town official, the fee for said permit as established by the Town Board. The Town Board may, from time to time, amend the fee schedule. Fees shall be established by the Town Board by resolution.

**ARTICLE XIII ZONING BOARD OF APPEALS**

**Section 1301 Establishment of Zoning Board of Appeals**

In order that the objectives of this Law may be more fully and equitably achieved and a means for competent interpretation of this Law provided, there is established a Zoning Board of Appeals for the Town.

**Section 1302 Membership, Terms of Office**

The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board for overlapping five (5) year terms.

**Section 1303 Removal of Members**

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by Local Law.

**Section 1304 Procedures, Meetings, Records and Decisions**

- a. Procedures. The Town Board shall appoint a chairman and the Zoning Board of Appeals shall appoint a secretary and shall prescribe rules in accordance with the provisions of the State Statutes for the conduct of its affairs.
- b. Meetings. Meetings shall be held at the call of the chairman and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure.

- c. Records and Decisions. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of each member and final disposition of each case. Every decision of the Zoning Board of Appeals shall bear the signature of a majority of the members of the Zoning Board of Appeals on the members of the Zoning Board of Appeals on the original thereof. All decisions of the Zoning Board of Appeals shall be permanently filed within five (5) days in the official Town Records. The Zoning Board of Appeals shall notify the Town Board, Planning Board and the Code Enforcement Officer of all decisions and resolutions.

**Section 1305 Notice of Hearings**

Upon filing with the Zoning Board of Appeals of an application for a zoning variance, or appeal from alleged error of the Officer, the Board shall fix a reasonable time and place for a public hearing thereon and give notice as follows:

- a. At least five (5) days prior to the date fixed for public hearing, publish a notice in the official paper describing the location of the building or lot and the general nature of the question involved. At least five (5) days before such hearing, the Board shall mail notices thereof to the adjacent parties, to the regional state park commission have jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal and to the county, metropolitan or regional planning agency as required by section two hundred thirty nine m (239m) of the General Municipal Law. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal.

**Section 1306 Rehearings**

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision of determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote is required and the rehearing is subject to the same notice provisions as the original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination, by unanimous decision of members present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

**Section 1307 Powers and Duties-Appeals from Alleged Error of Code Enforcement Officer**

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination, including any order requiring an alleged violator to stop, cease and desist, made by the Officer in the enforcement of this Law.

**Section 1308 Powers and Duties-Variances**

- a. To authorize, upon appeals, in specific cases such variance from the terms herein as will not be contrary to public interest where owing to special conditions a literal enforcement of the provisions of this Law result in unnecessary hardship, and so that the spirit of it shall be observed and justice done.
- b. The applicant shall have the burden of proof in establishing his right to a variance.
- c. In reaching its decision the Board shall be guided by the following standards:
  - 1. **Use Variances**
    - (a) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restriction have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:
      - (1) An applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
      - (2) That the alleged hardship relating to the property is unique, and does not apply to substantial portion of the district or neighborhood.

- (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood.
    - (4) That the alleged hardship has not been self-created.
  - (b) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 2. **Area Variances**
  - (a) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall consider:
    - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
    - (2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
    - (3) Whether the requested area variance is substantial.
    - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
    - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - (b) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- d. The Board of Appeals shall, in granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to an incidental to the proposed use of the property, and/or the period of time such variance shall be in effect.

**Section 1309 Who May Appeal**

Appeals to the Board of Appeals may be taken by any person or Town Official aggrieved or affected by any provision of this Law or by any order to stop, cease and desist issued by the Enforcement Officer in enforcing the provisions of this Law.

**Section 1310 Rules and Procedures for Filing Appeals**

- a. General rules and procedures for appeals.
  - 1. Any appeal shall be made by filing the same with the Enforcement Officer within sixty (60) days after the date of the officer's adverse decision.
  - 2. All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
  - 3. All appeals shall refer to the specific provisions of this law, the grounds thereof and the relief sought.
  - 4. All appeals shall set forth names and addresses of all adjoining owners including those across public roads from the subject property.
- b. Appeals from alleged errors. Appeals from alleged errors of the Enforcement Officer shall specify the alleged error, the Section or Sections herein, to which it pertains, and the interpretation thereof that is claimed.
- c. Variance appeals. Appeals for variance from the terms of this Law shall include, the Zoning/Building Permit application denied by the Code Enforcement Officer, together with a statement with any supporting evidence regarding the requirements listed in Section 401.

**Section 1311 Review by Planning Board on Appeals for Variance**

The Board shall request an advisory opinion from the Planning Board on appeal for variance. The Planning Board to submit a report of such advisory opinion prior to the date of the public hearing held by the Board on an appeal.

**Section 1312 Appeal to Court**

Any person or persons, jointly or severally aggrieved by a decision of the Board of Appeals or any officer, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under article seventy-eight of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the board in the office of the Town Clerk.

**Section 1313 Fees**

Appeals before the Board of Appeals shall be accompanied by a payment to the Town in accordance with a fee schedule adopted by resolution of the Town.

**Section 1314 Review by Cayuga County Planning Board**

The Zoning Board of Appeals shall refer any variance appeals to the County Planning Board when required by Article 239m of New York State Municipal Law.

**ARTICLE XIV PLANNING BOARD**

**Section 1401 Establishment of a Planning Board**

A Planning Board is established for the Town of Sterling.

**Section 1402 Membership, Terms of Office**

The Planning Board shall consist of five (5) members appointed by the Town Board for overlapping five (5) year terms.

**Section 1403 Removal of Members**

The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law.

**Section 1404 Powers and Duties-Site Plan Review**

- a. Sketch Plan. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:
  - 1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and where applicable, measures and features to comply with flood hazard and flood insurance regulations;
  - 2. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets right-of-way, properties, easements and other pertinent features; and
  - 3. A topographic or contour map of adequate scale and detail to show site topography
- b. Application for site plan approval. An application for site plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by information

contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

1. Site plan checklist
  - (a) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
  - (b) North arrow, scale and date;
  - (c) Boundaries of the property plotted to scale;
  - (d) Existing watercourses;
  - (e) Grading and drainage plan, showing existing and proposed contours;
  - (f) Location, design and type of construction, proposed use and exterior dimensions of all buildings;
  - (g) Location, design and type of construction of all parking and truck loading areas, showing access and egress;
  - (h) Provision for pedestrian access;
  - (i) Location of outdoor storage, if any;
  - (j) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
  - (k) Description of the method of sewage disposal and location, design and construction materials of such facilities;
  - (l) Description of the method of securing public water and location, design and construction materials of such facilities;
  - (m) Location of fire and other emergency zones, including the location of fire hydrants;
  - (n) Location, design, and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
  - (o) Location, size and design and type of construction of all proposed signs;
  - (p) Location and proposed development of all buffer areas, including existing vegetative cover;
  - (q) Location and design of outdoor lighting facilities;
  - (r) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
  - (s) Detailed landscaping plan and planting schedule;
  - (t) An estimated project construction schedule;
  - (u) An Environmental Assessment Form (EAF), as required by SEQRA;
  - (v) A record of application for and approval status of all necessary permits from state and county officials;
  - (w) Identification of any state or county permits required for the project's execution; and
  - (x) Other elements integral to the proposed development as considered necessary by the Planning Board.
- c. Review of site plan. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
  1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  5. Adequacy of storm water and drainage facilities.
  6. Adequacy of water supply and sewage disposal facilities.
  7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- d. Public hearing and Planning Board action on site plan.
  1. Within sixty-two (62) days of the receipt of an application for site plan approval, if it deems necessary, the Planning Board shall conduct a public hearing.
  2. Notice of hearing. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days prior to said hearing and at least five (5) days prior to the date fixed for public hearing, publish a notice in the official paper.
  3. The Planning Board shall make a decision of the application within sixty-two (62) days after such hearing, or after the day the application is received if no public hearing has been held, and immediately file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Zoning Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.
  4. Referral to the County Planning Board at least ten (10) days before hearing or, if there is no public hearing, before action is taken under provisions of section 239-m of the General Municipal Law.
  5. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, Zoning Officer, and file same with the Town Clerk.
  6. Upon disapproval of a site plan, the Planning Board shall so inform the Zoning Officer and the Zoning Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.
- e. Reimbursable costs. Reasonable and necessary costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.
- f. Performance guarantee. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or an appropriate financial surety, such as a certified check, irrevocable bank letter of credit or certificate of deposit has been posed for improvements not yet completed. The sufficiency of such financial surety shall be determined by the Town Board after consultations with the Planning Board, Zoning Officer, Town Attorney and other appropriate parties.
- g. Inspection of improvements. The Zoning Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- h. Integration of procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this zoning ordinance or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

**Section 1405 Powers and Duties-Special Permits**

- a. To hear and decide upon application for special permits for any of the uses for which the Law requires the obtaining of a special permit from the Planning Board.
- b. Applicant shall have the burden of proof in establishing his right to a special permit.
- c. General requirements and standards applicable to all special permits. The Planning Board shall grant a special permit only if it finds adequate evidence, that any proposed use submitted for a special permit will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The Board shall among other things, require that any proposed use and location be:
  - (1) In the best interests of the Town, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity.
  - (2) Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with, and appropriate in appearance with the existing or intended character of the general law.
  - (3) In conformance with all applicable requirements of this Law.
  - (4) Suitable in terms of effects on street or highway traffic and safety with adequate access arrangements to protect major streets from undue congestion and hazard.

- d. In granting a special use permit, the Planning Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Law. These conditions may include but are not limited to the following:
  - (1) Increasing the required lot size or yard dimension.
  - (2) Limiting the height, size or location of buildings.
  - (3) Controlling the location and number of vehicle access points.
  - (4) Increasing the number of required off-street parking spaces.
  - (5) Limiting the number, size, location and lighting of signs.
  - (6) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - (7) Designating sites for open space.
- e. Special permit applications. Applications for special permits shall include a zoning permit application with all information required therein, an approved site plan, and a statement with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Law.
- f. Public hearing and Planning Board action on special permits.
  - (1) Within sixty-two (62) days of the receipt of an application for special permit, the Planning Board shall conduct a public hearing.
  - (2) Notice of hearing. The Planning Board shall at least five (5) days prior to the date fixed for public hearing, publish a notice in the official paper.
  - (3) The Planning Board shall make a decision on the application within sixty-two (62) days after such hearing and file said decision within five (5) business days after the day such decision such decision was rendered with the Town Clerk, and mail such decision to the applicant with a copy to the Zoning Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.
  - (4) Referral to the County Planning Board must be made at least ten (10) days before hearing under provisions of section 239-m of the General Municipal Law.
  - (5) SEQRA requirements shall be met.

**Section 1406 Appeal to Court**

Any person or persons, jointly or severally aggrieved by a decision of the Planning Board or any officer, department, board or bureau of the Town, may apply to the Supreme Court for review by a proceeding under article seventy-eight of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the board in the office of the Town Clerk.

**Section 1407 Fees**

Applications for site plan review and special permits shall be accompanied by a payment to the Town in accordance with a fee schedule adopted by resolution of the Town.

**Section 1408 Review by Cayuga County Planning Board**

The Planning Board shall refer all applicable materials to the County Planning Board when required by Article 239-m of the New York State Municipal Law.

**Section 1409 Powers and Duties, PDD**

The Planning Board shall advise the Town Board regarding the establishment of Planned Development Districts (PDD) and review those uses and developments permitted by the Town Board as a PDD to determine compliance with applicable conditions of this Law and the PDD.

**A PDD shall be established only when the purposes, objectives, and procedures as follows are met.**

- a. Purpose  
In planned development districts (PDD), land and buildings may be used for any lawful purpose in any districts as authorized by the Town Board in specific instances. The purpose of the PDD is to provide flexible and land use and design regulations through the use of

performance criteria and land impact considerations, so that developments incorporating individual building sites, common property, singular land use, and/or mixed land uses may be planned and developed as a unit. Where deemed appropriate, the Town Board may consider a proposed planned development through an approval process requiring a zoning district change from the original district to PDD, in which the approved plan and a complete set of use and dimensional regulations become the basis for continuing land use controls.

## **ARTICLE XV**

### **AMENDMENTS, REMEDIES, PENALTIES, SEVERABILITY CLAUSE, REPEALER, AND EFFECTIVE DATE**

#### **Section 1501 Amendments**

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board or the Zoning Board of Appeals amend, supplement or repeal the regulations and provisions of this Law after public notice and hearing.

Every such proposed amendment or change, whether initiated by the Town Board or by petition shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notices to be given as follows:

- a. By publishing a notice of the time and place of the hearing at least ten (10) days prior to the date of such hearing in a paper of general circulation in the Town.
- b. A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, as such area is shown on an approved zoning map filed with the Zoning Officer, shall be given to the housing authority erecting or owning the project and of the government providing financial aid of assistance thereto at least ten (10) days prior to the date of such hearing.
- c. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any state park or parkway shall be given in the regional State Park Commission having jurisdiction over such state park or parkway at least ten (10) days prior to the date of such public hearing.
- d. A written notice of any proposed change of amendment affecting property within five hundred (500) feet of the boundaries of any city, village, town or county, shall be given to the clerk of such municipality and to the clerk of the County Legislature at least ten (10) days prior to the date of such hearing.
- e. In cases, however, of a protest against such change signed by the owners of twenty (20%) or more of the area of land included in such proposed change or of that immediately adjacent extending one hundred (100) feet there from or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by favorable vote of at least four (4) members of the Town Board.

#### **Section 1502 Zoning Referral to Cayuga County Planning Board**

As required under New York State General Municipal Law, certain variances, special permits and amendments shall be referred to the County Planning Board for review and recommendations.

#### **Section 1503 Enforcement and Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this article or of any other local law, ordinance or other regulation made under authority conferred thereby, the proper local authorities of the town, in addition to other remedies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises; and upon the failure or refusal of the proper local officer, board or body of the town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the town so to proceed, any three taxpayers of the town residing in

the district herein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the town is authorized to do.

**Section 1504 Fines and Penalties**

For any and every violation of the provisions of this Local Law:

1. The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;
2. The owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist; and
3. The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall exist, shall be liable, upon conviction thereof, to a fine or penalty not to exceed \$250.00 (two hundred fifty dollars) or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. Each week's continued violation shall constitute a separate, additional violation.

**Whenever a violation occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer who shall record such complaint and investigate and report thereon to the Town Board.**

**Section 1505 Severability**

It is hereby declared to be the legislative intent that:

- a. Should the courts declare any provision herein to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Local Law shall continue to be separately and fully effective.
- b. Should the courts find the application of any provision or provisions herein to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situation shall not be affected.

**Section 1506 Repealer**

The Local Law #1 adopted April 17, 1997 and entitled Zoning Law of the Town of Sterling and all supplements and amendments thereto, are hereby repealed. Provided, if the present Law is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective. It being the legislative intention that if the present enactment shall be ineffective as aforesaid, then and in that event the Law entitled Zoning Law of the Town of Sterling together with its supplements and amendments would necessarily remain in full force and effect.

**Section 1507 Effective Date**

The effective date of this Law shall be ten (10) days after publication pursuant to NYS Town Law.

**ATTACHMENT A**

**REGULATIONS APPLICABLE TO LANDSCAPING AND BUFFERS**

A. Authorization: Landscaping and buffering are permitted in any zoning district. When required by this Section in conjunction with a particular use said landscaping and buffering shall be deemed to be a mandatory element of any permit granted for said use.

B. Definitions: When used in this Chapter, the following words and terms shall have the meanings herein assigned.

1. Berm-an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
2. Buffer-a combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.
3. Screen-a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, or wall, or any appropriate combination thereof.
4. Shrub-a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.
5. Tree-a large, woody plant having one or several self supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.
6. Woodlands, existing-existing trees and shrubs of number, size and species that accomplish the same general function as new plantings.

C. Buffer Areas:

1. A hierarchy of buffers has been created corresponding to the degree of incompatibility. The more incompatible the proposed use the more physical space and vertical elements are required.
2. Determining required buffer-the buffer design required in a particular situation is designated by a letter. The following chart shall be used to determine the buffer required in a particular situation.

Proposed Use	Single family detached	2 family detached townhouse or garden apartment	Other residential	Commercial	Industrial
Single family detached	None	A	B	D	D
2 family detached; townhouse; garden apartment	A	None	A	D	D
Other residential	B	A	None	C	D
Commercial	D	D	C	None	C
Industrial	D	D	D	C	None

3. Determining size of required buffer-The area to be devoted to the buffer varies depending upon the letter designation application according to Chart 1. This area shall be determined by the following chart.

CHART 2-SIZE OF REQUIRED BUFFER

<b>Buffer Yards Required for Residential Use</b>		
Type	Min. Buffer Yard	Number of Plants Units*
A	10 feet	40
B	20 feet	80

<b>Buffer Yards Required for Commercial-Industrial Uses</b>		
Type	Min. Buffer Yard	Number of Plants Units*
C	50 feet	140
D	60 feet	180

\*Number of plant units required per 100 linear feet of property line or right of way

- Determining number of plant units-The plant units required by Chart 2 shall be determined by the following chart:

	Height	Units
1 shade tree	12-14 feet	10 plant units
1 evergreen or ornamental tree	7-9 feet	5 plant units
each shrub	1.5 feet	1 plant unit

D. Landscaping:

- General requirements for landscaping plan-all uses subject to site plan review and approval by the Planning Board shall include a landscaping plan with the site plan submission. The Planning Board may require the landscaping plan be prepared by a landscaping plan with the site plan submission. The Planning Board may require the landscaping plan be prepared by a landscape architect.
- Specific requirements for land