

Article 3

ADMINISTRATION, ENFORCEMENT, AND PENALTIES

Section 3.01 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Municipal Planning Commission and the Sterling Village Council in accordance with the State of Michigan Municipal Planning Commission Act 285 of the Public Acts of 1931 as amended. The Village Council and Planning Commission shall employ a Zoning Administrator to act as its officer to ensure and affect the proper administration of this Ordinance. The individual selected, the term of employment, the limits to and the extent of his authority to enforce this Ordinance, and the rate of compensation shall be established by the Village Council.

Section 3.02 PUBLIC NOTICE

1. **Public Notification:** All applicants for development approval requiring a public hearing, regardless of whether or not action to be taken is by the Board of Trustees, Planning commission, or Zoning Board of Appeals shall comply with relevant local, state, and federal laws and the other provisions of this Section with regard to public notification.
 - A. **Responsibility:** When the provisions of this Ordinance or relevant local, state, and federal laws require that notice be published, the Village Zoning Administrator shall be responsible for preparing the content of the notice and the Village Clerk having it published in a newspaper of general circulation in the Village and mailed or delivered as provided in this Section.
 - B. **Content:** All mail, personal and newspaper notices for public hearings shall:
 1. **Describe Nature of the Request:** Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 2. **Location:** Indicate the property that is the subject of the request. The notice shall include a Listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 3. **When and Where the Request will be Considered:** Indicate the date, time, and place of the Public hearings(s).
 4. **Written Comments:** Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 5. **Handicap Access:** Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
 - C. **Personal and Mailed Notice**
 1. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - i. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Sterling.

if the name of the occupant is not known, the term: occupant: may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- b. All neighborhood organizations, public utility companies, railroads, and other persons, which have requested to receive notice pursuant to Section 3.02, of this Ordinance, "Registrations to Receive Notice by Mail."
 - c. Other governmental units or infrastructure agencies within one (1) mile of the property involved in the application.
2. **Notice by Mail/Affidavit:** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Village Zoning Administrator shall prepare a list of property owners and registrants to whom the notice was mailed, as well as of anyone to whom personal notice was delivered.
 3. **Timing of Notice:** Unless otherwise provided in compliance with relevant local, state, and federal laws or this Ordinance where applicable, notice of public hearing shall be provided as follows:
 - A. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.
 - B. Any other public hearing required by this Ordinance will be followed.
 4. **Registration to Receive Notice by Mail:**
 - A. **General:** Any neighborhood organization, public utility company, railroad or any other person may register with the Village Zoning Administrator to receive written notice of all applications for development approval within the zoning district in which they are located. The Village Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by resolution of the Village Council.

Section 3.03 PLANNING COMMISSION

1. **Approving Body:** The Planning Commission shall be the approving body for commercial use "Permitted by right" and all "special land use" requiring land uses except Planned Unit Developments, which shall require Village Council approval. See Article 7: Procedures for Special Land Uses of this ordinance.
2. **Appointment:** The Planning Commission is appointed by the Village Council and consists of six (6) Members.
3. **Board Appointment:** One (1) member of the Village Council must serve on the Planning Commission.
4. **Terms:** Terms of office are two (2) years and staggered
5. **Rules:** Establishes its own rules of procedure and elects its own officers.
6. **Malfeasance or Nonfeasance Applicable to the Planning Commission:** The Village shall provide for the removal of a Planning Commission member for misfeasance, malfeasance or nonfeasance or nonfeasance in office upon written charges and after a public hearing in compliance with relevant

local, state, and federal laws. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office in compliance with relevant local, state, and federal laws.

Section 3.04 DUTIES OF THE ZONING ADMINISTRATOR/ENFORCEMENT OFFICER

Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform, but not necessarily be limited to, the following duties:

- A. **Receive Applications and Issue Permits:** Review all applications for permits and certificates of occupancy and approve or disapprove such applications based on compliance or noncompliance with the provisions of this Ordinance and issue certificates when there is compliance with this ordinance. Review all applications for special use permits; conduct field inspections, investigations, prepare maps, charts, and other material when necessary of desirable and otherwise process applications so as to formulate recommendations; report to the Planning Commission with recommendations and notify the applicant in writing of any decision of the Planning Commission. Receive all applications for appeals, variances, or other matters which the Board of Appeals is required to decide under this Ordinance; conduct filed inspections, investigations; prepare maps and other material and otherwise process applications with recommendations to the Board of Appeals for determination. Receive all applications for amendments to this Ordinance; conduct field inspection; surveys and investigations, prepare maps and other material and otherwise process applications so as to formulate recommendations, report to the Planning Commission all such applications together with recommendations.
- B. **Maintain File of Applications and Permits:** Maintain a written record of all actions taken by the Administrator.
- C. **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance and shall make such inspections, at a minimum, at the time of staking out of building foundations or structure locations and upon completion of construction authorized by the permit. It shall be the responsibility of the permit holder to notify the Zoning Administrator when construction activities are ready for a zoning compliance inspection. No person shall molest the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek authority through the Village Council to obtain a search warrant through the Village Attorney any time a property owner refuses access to a property in order to inspect to determine compliance with this Ordinance.
- D. **Record of Complaints:** The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- E. **Violations:** Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he or she identifies a violation.

Section 3.05 PERMIT PROCEDURES AND REGULATIONS

It is the intent and purpose of this Section to create a review and permit process for the administration of this Ordinance. The primary process shall require the issuance of one (1) permit, which shall be the Zoning Permit. Issuance of such a Permit, pursuant to this Section, shall indicate that the uses and plans for which the Zoning Permit is requested comply with this Ordinance. Upon the issuance of a Zoning Permit, the applicant may erect or alter a building or structure for which the Zoning Permit has been issued only after receiving a Building Permit from the County Building Inspector.

- A. **Zoning Permit Application Required:** No excavation shall be initiated, no building shall be erected, altered, moved or structural alterations (including but not limited to porches, decks, patios, or terraces) initiated until a Zoning Permit has been issued by the Zoning Administrator and, where required, a Building Permit has been issued by the County Building Inspector. An application for a Zoning Permit shall be available from the Zoning Administrator. The application shall be completed by the applicant and shall be accompanied by the following:

- B.
1. **Site Plan:** According to the provisions of Sections 6.02 and 6.03 of this Ordinance.
 2. **Sanitary Sewer or Septic Approval:** In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the Arenac County Health Department certifying in writing the approval of a private sanitary sewage disposal systems plan specific to a designated location on the subject property, or when public sanitary sewage service is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
 3. **Water Supply Approval:** When a municipal, public, or private water supply system is required by law or proposed by the applicant, either a report from the Arenac County Health Department, certifying approval of a proposed private water supply system, or when municipal or public water supply is required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
- C. **Application Fees:** Fees for review of development proposals, inspections and the issuance of permits or certificates required under this Ordinance shall be deposited with the Village Clerk in advance of processing any application or issuance of any permit. No application for approval for which a fee is requested will be processed until the fee is deposited with the Village Clerk. The amount of such fees shall be established by the Village Council by resolution and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. See also 8.3 of Sterling Municipal Planning Commission Ordinance of May 11, 1971. Such fees may include but are not limited to all costs associated with conducting a public hearing or inspection, including newspaper notice, postage, photocopying, and staff time; Planning Commission, Village Council and/or Zoning Board of Appeals time; mileage; and any costs associated with reviews by qualified professionals including professional planners and/ or engineers.
1. **When Professional Review Fee is Required:** For any application for approval of a Site Plan, Special Land Use, variance, or other use or activity requiring a permit under this Ordinance, either the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Village Council may require the payment of a professional review fee, and this fee shall be in accordance with the Village of Sterling Escrow Policy. (See Appendix A) A fee may be requested for any project which may, in the discretion of the Zoning Administrator, Zoning Board of Appeals, Planning commission, or Village Council, create conditions on the subject site hazardous to the general public health, safety, or welfare. Including vehicular circulation patterns or create an identifiable and potentially negative impact on public infrastructure of services or on adjacent properties, and because of which professional input is desired before a decision to approve, deny, or approve with conditions is made.
 2. **Professional Review and Report:** Any portion of a fee may be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Village Council values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Village indicating the extent of conformance identified impacts. The applicant will receive a copy of any professional review services rendered.
 3. **Fee Balance:** The applicant is entitled to a refund of any unused fee at the time a permit is either issued or denied in response to the applicant's request. If actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to receipt of any Zoning Permit or other permit issued by the Village in response to the applicant's Request.

- D. **Processing of Application:** The Zoning Administrator shall review the zoning permit application to determine that it is complete and, if so, forward the application to the appropriate decision-making body, unless the Zoning Administrator is the approving body.
1. The Zoning Administrator shall be the approving body for all uses permitted "by right" not requiring site plan approval unless the Zoning Administrator defers approval to the Planning Commission. (See Article 6: Procedures for Site Plan)
 2. The Planning Commission shall be the approving body for all uses permitted "by right" requiring site plan review and all special land uses except planned unit developments, which shall require Village Council approval. (See Article 7: Procedures for Special Land Uses)
- E. **Permit Issuance, Withholding, Expiration, and Revocation:**
1. **Issuance:** Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue the appropriate permit. A performance guarantee may be required as a condition to the issuance of any Zoning Permit in order to insure conformance with the requirements of this Ordinance. (See Section 3.06) In any case where a permit is refused, the reasons shall be stated in writing to the applicant. No Zoning Permit shall be granted which relies upon a variance until eight (8) days following the decision of the Zoning Board of Appeals has expired.
 2. **Withholding Permit:** The Zoning Administrator may withhold any Zoning Permit pending verification that an applicant has received required county, state or federal permits including but not limited to septic and water well permits; soil erosion and sedimentation control permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning commission or Village Council, the Planning Commission or Village Council may condition final approval of the requested development activity upon the receipt of any of the above-mentioned county, state, or federal approvals and/or direct the Zoning Administrator not to issue a Zoning Permit until said permits from other agencies have been obtained.
 3. **Expiration of Permit:** Any permit granted under this Section shall become null and void after one (1) year from the date of granting such permit unless the development proposed, or activity authorized shall have passed its first inspection by the Zoning Administrator. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective, provided however, that the Planning Commission may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction. Upon expiration without a waiver extension, the permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.
- F. **Relation to Nonconforming Uses:** Please refer to 6.2 of the Sterling Municipal Planning Commission Ordinance of May 11, 1971.
- G. **Occupancy Permit:** No structure or use shall be occupied without first receiving a certificate of occupancy permit from the Building Inspector.
- H. **Land Use Permit:** No use shall be established or changed without first obtaining a Land use certificate from the Zoning Administrator.

Section 3.06 REVOCATION

The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

Section 3.07 REFORMANCE GUARANTEE FOR COMPLIANCE

1. **Purpose:** In authorizing any Zoning Permit or variance, the body or official, which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished.
 - A. To ensure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance;
 - B. To insure the discontinuance of a temporary use by a stipulated time; and
 - C. To provide sufficient resources for the Village to complete required improvements or conditions in the event the permit holder does not. A performance guarantee may be required as a condition for the issuance of a Zoning Permit in addition to any other condition established pursuant to Section 18.15.
2. **Requirements of Guarantee:** The performance guarantee shall meet the following requirements:
 - A. **Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features and actions associated with the project which are considered necessary by the approving body to protect natural resources or the health, safety, and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, common open space improvements, lighting, drainage, and sidewalks.
 - B. **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Village Clerk, which names the property owner as the obligor and the Village as the obligee. If appropriate, based on the type of performance guarantee submitted, the Village shall deposit the funds in an account in a financial institution with which the Village regularly conducts business.
 - C. **Amount and Time Required:** The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions, according to a detailed cost estimate submitted by the applicant and approved by the designated approving body of the project. After approval of the detailed cost estimate by the approving body, the performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project.
3. **Return of Performance Guarantee or Bond:** The following procedure shall be followed in the return of performance guarantees or bonds.
 - A. **Request for Payment:** As required improvements are completed, or when all the of required improvements have been completed, the obligor shall send written notice to the Village Clerk of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all the improvements and shall transmit recommendation to the Planning Commission and Village Council indicating, either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval if indicated, the cost of the improvement or condition rejected shall be set forth.
 - B. **Approval of Payment:** The Planning Commission, or in the case of a planned unit development, the Village Council, shall either approve, partially approve, or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission or

Village Council within forty-five (45) days after receipt of the notice from the obligor or the completion of the improvements. Where approval or partial approval is granted, the Planning Commission or Village Council shall notify the Village Clerk of such approval and the Village Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.

Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

- C. **Lack of Full Completion:** Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Village may complete the necessary improvements or conditions itself or by contract to an independent developer and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining shall be returned to the applicant.
- 4. **Performance Guarantee for Razing of Building:** The Zoning Administrator may require a bond prior to the razing or demolition of principal structures and accessory structures having more than one hundred forty-four (144) square feet of floor area. The amount of the performance guarantee shall be determined according to a guideline of one thousand dollars (\$1,000.00) for each one thousand (1,000) square feet, or fraction thereof, of floor of the structure to be razed. A guarantee shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Chief, or the Village Council may from time to time prescribe, including filling of excavations and proper termination of utility connections.
- 5. **Record of Performance Guarantees:** A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

Section 3.08 MISCELLANEOUS POWER OF THE VILLAGE COUNCIL

The Village of Sterling shall be allowed access onto the premises during the period of time of a project so as to be able to ascertain adherence to all ordinances of the Village of Sterling.