

Article 4

ZONING BOARD OF APPEALS

Section 4.01 CREATED, MEMBERSHIP

1. **Members:** The Sterling Village Council shall constitute the Board of Appeals upon all questions arising under this Ordinance and may fix rules and regulations to govern the procedure to be followed before such Board shall hear and decide appeals from and review any order, requirements, decisions, or determinations made by the Administrator. This Board shall also hear and decide all matters referred to it, or upon which they are required to pass hereunder. The concurring vote of a majority of the members of the Village Council shall be necessary to reverse any order, requirement, decision, or determination of the Administrator, or to decide in favor of the applicant, any matter upon which they are required to pass under this Ordinance.
2. **Alternates:** The Village Council may also, if it so desires, appoint not more than two (2) alternate members for the same term as regular members of the Zoning Board of Appeals. An alternate member may be called in the absence of a regular member who will be unable to attend one (1) or more meetings. An alternate member may also be called to service in place of a regular member of the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall have the same voting rights as a regular member of the Zoning Board of Appeals.
3. **Vacancies:** A successor member of the Zoning Board of Appeals must be appointed by the Village Council not more than one (1) month after the term of the proceeding member has expired in compliance with relevant local, state, and federal laws.
4. **Malfeasance or nonfeasance applicable to the ZBA:** The Village Council shall provide for the removal of a Zoning Board of Appeals member for misfeasance, malfeasance, or nonfeasance in office upon written charges and after 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.
5. **Procedure:** The Zoning Board of Appeals shall annually elect its own chairman and at such other times as the Board may determine by rule. All meetings of the Board shall be open to the public. The Board shall adopt its own rules of procedure and shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk and shall be a public record. The fees to be charged for appeals shall be set by resolution of the Village Council.

Section 4.02 POWERS OF ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an appeal, administrative review, interpretation, exception, or variance as defined as follows:

- A. **Administrative Review:** The Zoning Board of Appeals shall hear and decide questions that arise in the administration of zoning ordinance including its interpretation of the zoning map.
- B. **Appeal:** The Zoning Board of Appeals shall hear and decide appeals from and review any Administrative order, requirement, decision, or determination made by any Village Administrative official or body charged with enforcement of this ordinance.

- C. **Special Land Use Approvals:** The Zoning Board of Appeals shall not hear appeals of decisions regarding Special Land Use or Planned Unit Development requests.
- D. **Non-Use Variance:** The Zoning Board of Appeals may grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this ordinance or to any other nonuse-related standard in this ordinance. Variances may be granted when practical difficulties prevent compliance with the strict letter of this ordinance so that the spirit of the ordinance is observed, public safety secured, and substantial justice done. In addition, the Zoning Board of Appeals may grant variances in height and bulk requirements for public utility installations. In granting any variance, the Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed uses, as it may deem reasonable in furtherance of the purposes of this Ordinance. In granting a variance, the Board of Appeals shall state the grounds upon which it justified the granting of a variance.

Section 4.03 APPEALS PROCEDURE

Appeals may be made by any person aggrieved. Such appeals shall be taken within such times as prescribed by the Council, by general rule, by filing with the officer from whom the appeal is taken, and with the notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall further transmit to the Council all the papers constituting the record upon which the action appealed from was taken.

The Village Council shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time upon the hearing, any party may appear in person, or by agent, or by attorney. The Village Council may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the Ordinance the Village Council shall have the power in passing upon appeals to interpret any of its rules, regulations, or provisions relating to the construction or structural changes in the Ordinance shall be observed, public safety secured and substantial justice done. The decision of the Council shall be final so far as it involves discretion or the finding of facts.

An appeal stays all proceeding in furtherance of the action appealed from unless the Administrator certifies to the Village Council after the notice of appeals shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property in which case proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Village Council or by Circuit Court upon application, upon notice of the officer from whom the appeal is taken and on due cause shown.

If the Board of Appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the Zoning Board of Appeals shall conduct a public hearing on the request. Notice shall be given as required under Section 3.02.

An appeal from a decision of the Board of Appeals must be filed within thirty (30) days after the Board of Appeals decision in writing, or within twenty (20) days of the Board of Appeals approved minutes.

Section 4.04 STANDARDS

Each case before the Zoning Board of Appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. The Board shall give consideration to the following:

- A. Standards for Non-Use Variances:** A non-use variance requires a showing of practical difficulties in complying with relevant local, state, and federal ordinances, laws, and regulations.
- B. Applicant:** The applicant must show practical difficulty by demonstrating all the following:
1. That strict compliance with area, setbacks, frontage, height, build, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
 2. That a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;
 3. That the plight of the property owner is due to unique circumstances of the property.
 4. That the problem is not self-created.
- C. Plans and Documentation, as applicable, should be Submitted as Follows:**
1. The location and size of the use.
 2. The nature and intensity of the operations involved in or conducted in connection with the use.
 3. Size, layout, and relation to pedestrian and vehicular traffic to and from the use.
 4. The assembly of persons in connection with the use will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood. The use shall take into account, among other things, convenient routes of pedestrian traffic,
 5. Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood.
 6. The location and height of buildings, the locations, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 7. The nature, location, size, and site layout of the use shall be such that it will be a harmonious part of the district in which it is situated, taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one (1) type of use to another and related characteristics.
 8. The locations, size, intensity, and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings by reason of noise, fumes, or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.
- E. Fees:** Fees for the processing of appeals shall be established by resolution of the Village Council.

Section 4.05 STAY

See 9.3 of Sterling Municipal Planning Commission Ordinance of May 11, 1971.

Section 4.06 REVIEW BY CIRCUIT COURT

The decision of the Zoning Board of Appeals shall be final. However, any party having an interest affected by an order, determination or decision of the Zoning Board of Appeals may obtain a review thereof both on the facts and the law, in the Circuit Court provided that application is made to the Court within thirty (30) days after the delivery of a final decision.

Section 4.07 MISCELLANEOUS

No order of the Zoning Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than one (1) year, unless an appropriate permit is obtained, and such erection or alteration has commenced pursuant to the terms of such permit.

Article 5

PROCEDURES FOR AMENDMENTS

Section 5.01 PURPOSE AND INTENT

The purpose of this Ordinance is for establishing and maintaining sound, stable and desirable development within the territorial limits of the Village. It is not intended that this Ordinance be amended except to correct an error in the Ordinance, to address changed or changing conditions in a particular area in the Village, to conform with changes to the Future Land Use Plan and/or other ordinances of the Village, to meet public need to new or additional land uses in areas so contemplated by the Future Land Use Plan, or to further protect the environment, neighborhoods, public infrastructure, or other public investment in the Village.

Section 5.02 INITIATION OF AMENDMENTS

Proposals for amendments, supplements, or changes may be initiated by the Village Council on its own motion by the Planning Commission or by petition of one or more owners of property to be affected by the proposed amendment.

Section 5.03 FILING FEE

Each petition by one or more persons for an amendment shall be submitted in application to the Planning Commission through the Administrator on a standard form provided, and shall be accompanied by a \$30.00 fee. No part of such fee shall be returned to a petitioner if a public hearing is held.

Section 5.04 PROCEDURES

1. **Application:** A petitioner shall submit a completed application for ordinance amendment to the Zoning Administrator or a form established for that purpose, which shall include a detailed description of the proposed amendment.
 - A. When a request for amendment is initiated, the Administrator shall notify the Village Council of the request for an amendment at the same time he transmits the amendment request to the Planning Commission.
 - B. The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to individual proposal and in terms of most likely effect on the community. The Planning Commission may recommend any additions or modifications to the original amendment proposed.
 - C. After deliberation on any proposal, the Planning Commission shall conduct at least one public hearing, notice of time and place which shall be given by two publications in a newspaper of general circulation in the County; the first to be printed not more than 30 days and not less than 20 days and the second not more than 8 days before date of such hearing. Not less than 20 days' notice of the time and place of such hearing shall also be given by certified mail to each public utility company and to each railroad within the zone affected. The notices shall include the place and time at which the tentative text and any maps of the Ordinance may be examined.
 - D. Following the conclusion of the Public Hearing, the Planning Commission shall transmit the proposed amendment to the Village Council, and they shall deem where any amendments, changes, additions, or departures advisable as to the proposed text, or boundaries, it shall refer the same to the Planning Commission within a specified time. The Village Council shall grant a hearing on the proposed amendment to the property owner who has filed a written request to be so heard and shall request the Planning Commission to attend such hearing. Therefore, the Village Council may adopt the amendment with or without changes in accordance with the provisions and procedure of Act 183 of the Public Acts of 1943 as amended.
 - E. No application for rezoning which has been denied by the Village Council shall be resubmitted for a period of one year from date of last denial, except on grounds of newly discovered evidence of proof of changed conditions found upon inspection by the Village Council to be valid. A piece of property proposed for rezoning must be posted at least 8 days in advance of public hearing.

Section 5.05 CONDITIONAL REZONING

1. **Intent:** It is recognized that there are certain instances where it would be in the best interests of the Village, as well as advantageous to the property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this Section to provide a process in compliance with relevant local, state, and federal laws by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
2. **Application and Offer of Conditions:**
 - A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
 - C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
 - E. Any use of development proposed as part of an offer of conditions that would require a special land use permit under the terms of the Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
 - F. Any use or development proposed as part of an offer of conditions that require variance under the terms of this Ordinance may only be commenced if a variance for such use of development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
 - G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provision of this Ordinance.
 - H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
3. **Planning Commission Review:** Planning Commission, after public hearing and consideration of the factors for rezoning shall recommend approval, approval with recommended changes or denial of the rezoning, provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
4. **Village Council Review:** After receipt of the Planning Commission's recommendations, the Village Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. This Village Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning of this Ordinance. Should the Village Council consider amendments to the proposed conditional rezoning advisable and if such a contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council shall, in accordance with Section 4.05 of the Michigan Zoning Enabling Act (MCL 125.3405), refer such amendments to the Planning Commission for a report thereof within a time specified by the Village Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

5. Approval:

- A. If the Village Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Village Council to accomplish the requested zoning.
- B. The Statement of Conditions shall:
 - 1. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit, or Memorandum prepared and signed by the owner giving notice of the statement of Conditions in a manner acceptable to the Village Council.
 - 2. Contains a legal description of the land to which it pertains.
 - 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Village with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
 - 6. Contain the notarized signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions. contained within the Statement of Conditions.
- A. Upon rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Village Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- B. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Village with the Register of Deeds of the County. The Village Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Village or to any subsequent owner of the land.

6. Compliance with Conditions:

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall require all necessary reconstruction (to include demolition and other associated costs as wanted) of the development, at the owners expense, and/or to also be assessed against the relevant tax rolls of the concerned properties, and any and all other penalties as allowed by local, state, or federal laws, and further, that the reconstruction be completed within one year of notification of the Village, in order for the development to comply with the previous zoning. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law and/or enforcement by Village Civil Infraction, with the remedy chosen by the Village not to be exclusive of any other remedy of which the Village may be entitled to as stated herein or as allowed by law.

7. Time Period for Establishing Development or Use: Unless another time period is specified in the

Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Village Council if:

B. It is demonstrated to the Village Council's reasonable satisfaction that there is specified in the likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and

C. The Village Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

8. Reversion of Zoning: If approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection 7 above, then the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act (MCL 125.3405). The reversion process shall be initiated by the Village Council requesting that the Planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

9. Subsequent Rezoning of Land: When land that is rezoning with a Statement of Condition is thereafter rezoning to a different zoning classification or to the same zoning classification but with a difference or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to the Subsection 8 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Village Clerk shall record with the Register of Deeds of the County that the Statement of Conditions is no longer in effect.

10. Amendment of Conditions: During the time period for commencement of an approved development or use specified pursuant to Subsection 7 above or during any extension thereof granted by the Village Council, the Village shall not add to or alter the conditions in the Statement of Conditions.

11. Village Right to Rezone: Nothing in the Statement of conditions nor in the provisions of this Section shall be deemed to prohibit the Village from rezoning all or any portion of land that is subject to a statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act. (MCL 125.3405).

12. Failure to Offer Conditions: The Village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 5.07 COMPREHENSIVE REVIEW OF ZONING ORDINANCE

The Planning Commission shall, from time to time, or at intervals of not more than five (5) years, examine the provisions of this Ordinance and the location of Zoning district boundary lines and shall submit a report to the Village Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety, and general welfare.

Article 6

PROCEDURES FOR SITE PLAN REVIEW

Section 6.01 PURPOSE

It is the purpose of this Article to specify standards, data requirements, and the review process, which shall be followed in the preparation of site plans required by this Ordinance.

Section 6.02 APPROVAL OF SITE PLAN

1. Village Council Approval for Site Plans:

Site plan approval is required by the Village Council, prior to the issuance of a Zoning Permit, for the following uses:

- A. Planned Unit Development projects.
- B. All single and two-family developments subject to the requirements of P.A. 288 of 1967, the Subdivision Control Act, as amended.
- C. All condominium subdivisions subject to P.A. 59 of 1978, the Condominium Act, as amended.
- D. One-Family cluster option and open space subdivision option.

2. Planning Commission Approval for Site Plans: Unless required otherwise by Section 6.02 below, site plan approval is required by the Planning Commission, prior to the issuance of a Zoning Permit, for the following land uses:

- A. All uses permitted by right within any business or industrial zoning district.
- B. All special land uses except planned unit developments.

3. Administrative Approval: Unless required otherwise by Section 6.02 (1, 2) above, site plan approval may be granted by the Zoning Administrator pursuant to the issuance of a Zoning Permit for the following:

- A. All uses permitted by right within any business or industrial zoning district provided:
 - 1) No significant site changes are proposed.
 - 2) The use is an allowable use in the proposed zoning district.
 - 3) No structural changes are proposed.
- B. All other uses or conditions not listed in Section 6.02 (1) or (2) above. The Zoning Administrator shall review submitted plans.

Note: The Zoning administrator shall have the option to require a complete site plan review and approval by the Planning Commission for sites which do not comply with previously approved site plans, for sites with parking deficiencies, for sites abutting residential districts and for sites with other issues.

Section 6.03 DATA REQUIRED

- 1. **Site Plan:** Each site plan shall be provided on a professional quality drawing of scale not less than 1" = 100'. All information depicted shall be designed by a professional engineer, land surveyor, architect or landscape architect licensed in Michigan. In addition to the applicant's full name, address and phone number, the following data shall be submitted with applications for Zoning Permits for uses requiring a site plan:

- A. A survey showing property dimensions and legal description, including angles, lot area and dimensions, and an arrow pointing north.
- B. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, garages, number of employees by shift, amount of recreational and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Ordinance.
- C. A plan showing the location of all buildings and structures existing and proposed on the site including building elevation drawings and including all the following listed items.
- D. Natural features such as woodlands, streams, flood plains, county drains, lakes or ponds, topography at two (2) foot intervals on-site and within one hundred fifty (150) feet of the site and man-made features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
- E. Existing public right-of-way, private easements of record, and deed restrictions.
- F. Proposed streets and alleys, (including cross-sections), acceleration, deceleration or right turn lanes, driveways, parking spaces, sidewalks, with indication of direction of travel, the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, and dimensions of a typical individual parking space and associated aisles. Proposed traffic control measures (including signs) and proposed street or road names shall also be indicated.
- G. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public thoroughfare(s).
- H. Location of utilities, water supply and the location and design of wastewater systems as well as any easements that exist or are proposed to be established for installation, repair, and maintenance of utilities.
- I. Proposed location of trash receptacles, accessory buildings and uses, and signs.
- J. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing, and lighting in compliance with the requirements of Article 23, Landscaping and Screening. Also, proposed locations of common open spaces, if applicable.
- K. A storm drainage and storm water management plan for the site.
- L. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
- M. Location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall also be specified on the site plan.
- N. A statement from the applicant identifying all federal, state, and local permits required, if any.
- O. Project completion schedule.
- P. Such other information as is necessary to enable the Planning Commission to determine whether the proposed site plan will conform to the provisions of this Ordinance.

Section 6.04 SITE PLAN REVIEW PROCEDURES

1. Potential applicants are encouraged to submit preliminary plans and schedule a preliminary site plan review meeting with the Zoning Administrator, especially for large scale projects. The purpose of the meeting is to address any site plan issues/plan deficiencies that can be corrected prior to formal site plan review.
2. **Submittal and Distribution of Site Plans:** At least ten (10) copies of the application and site plan shall be submitted to the Zoning Administrator at least ten (10) days prior to transmittal to the Planning Commission. The Zoning Administrator shall review the application and site plans for completeness and if such application or plans are not complete according to Section 6.03(2), the plans shall be returned to the applicant with a written notice identifying the inadequacies of the plans. Upon receipt of an adequately completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit seven (7) copies thereof to the Planning Commission; one (1) copy to the Fire Department, when necessary, one (1) copy to the Village Clerk, and the remaining shall be retained by the Zoning Administrator.
3. **Staff Review:** The Zoning Administrator may request a professional review to be completed by professional planners, engineers, and/or architects, as needed.
4. **Review:** The Planning Commission shall review the application plans, and any staff review to determine their conformity with the applicable provisions of this Ordinance and the provisions of Section 6.05. The Planning Commission may, at its discretion, delay deliberating upon a site plan at its next regularly scheduled or special meeting unless the site plan and all supporting documents, including a zoning permit application form, has been received by the Planning Commission at least seven (7) business days prior to such meeting.
5. **Planning Commission and Village Council Review and Action:** After conducting a review, the Planning Commission shall reject, approve, or conditionally approve the site plan as it pertains to requirements and standards contained in the Zoning Ordinance, except that the Planning Commission will only make recommendations for rejection, approval, or conditional approval of a site plan for a site plan requiring Village Council approval pursuant to Section 6.02(2)(A-C) and forward its recommendation to the Village Council for final action. Any conditions required by the Planning Commission or Village Council for approval shall be stated in writing, together with the reasons, and delivered to the applicant. Decisions and recommendations by the Planning commission shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the Planning Commission, an extension of time is necessary to adequately collect and review information pertinent to a decision or recommendation.
6. A site Plan shall be approved by the Planning Commission or Village Council if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Village planning documents, other applicable ordinances, and state and federal statutes. **Approved Site Plans:** Three (3) copies of the approved Site Plan, with any conditions contained within shall be maintained as part of the Village records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Chairperson of the Planning Commission, or by the Village Supervisor in the case of a use listed in Section 6.02(2) (A-C), for identification of the approved plans. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Village records as a part of the site plan and delivered to the applicant for information and direction.

Section 6.05 SITE PLAN APPROVAL STANDARDS

Each site plan shall conform with the applicable provisions of this Ordinance and the standards listed below, in addition to any condition imposed by the Planning Commission pursuant to Section 18:15.

- A. All elements of the Site Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of

buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the appropriate blending of the site plan with the surrounding community and, in the case of parking lots, provide directional guidance to drivers. Landscaping, buffering, and screening shall conform with the requirements of Article 23, Landscaping and Screening.
- C. Storm water drainage shall comply with standards established by Arenac County, the Michigan Department of Transportation or Sterling Village, as applicable. Special attention shall be given to proper site drainage so that removal of storm waters will not increase off site sedimentation or otherwise adversely affect neighboring properties.
- D. The site plan shall provide reasonable, visual, and sound privacy for all dwelling units located therein. Special attention shall be given to ensure the peaceful surroundings of any nearby dwellings or other types of communities, so as to lend continuity, and that adequate, natural light, that may be currently enjoyed, be continued to be enjoyed by the surrounding structures. Fences walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practical means to all sides.
- F. Every structure or dwelling unit shall have access to a public street, walkway, or other area dedicated to common use.
- G. There shall be provided a pedestrian circulation system, which is insulated as completely as reasonably possible from the vehicular circulation system.
- H. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties. Flashing or intermittent lights shall not be permitted.
- I. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives, which are part of an existing or planned street pattern, which serve adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards of the County Road Commission.
- J. All roads dedicated to public use shall be developed in accordance with County Road Commission specifications.
- K. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.
- L. Residential and nonresidential development shall not include unnecessary curb cuts and commercial service drives shall be used where the opportunity exists.
- M. The site plan shall provide for the appropriate location of all necessary and proposed utilities. location requirements shall include underground facilities to the greatest extent feasible.
- N. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before the final site plan approval is granted.

- O. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
1. Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers, or wetlands.
 2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
 3. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system) or regulated through a State of Michigan Ground Water Discharge Permit.
 4. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

Section 6.06 PRELIMINARY SITE PLAN REVIEW OPTION

Developments requiring site plan review which exceed ten (10) acres in size, or which will be developed in phases, may seek approval of a preliminary site plan, the purpose of which is to indicate the general design and layout of the project.

- A. **Preliminary Review Application:** Applications for preliminary site plan approval shall be submitted to the Zoning Administrator on a form for that purpose and shall consist of the following:
1. Ten (10) copies of a completed application form supplied by the Zoning Administrator.
 2. Ten (10) copies of the preliminary site plan at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:
 - a. Property dimensions and topographic elevations at two (2) feet intervals.
 - b. Significant vegetation.
 - c. Watercourses and water bodies, including man-made surface drainage ways.
 - d. Existing public right of way, pavements, and/or private easements.
 - e. Existing and proposed uses, buildings, structures, and lots.
 - f. Zoning classification of abutting properties.
 - g. The names and address of the person and firm who prepared the plan and the date on which the plan was prepared.
 - h. The Planning Commission may require written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities, the environment, or natural resources.

B. **Planning Commission and Village Council Review and Action:** After conducting a review, The Planning Commission shall reject, approve, or conditionally approve the preliminary site plan as it pertains to requirements and standards contained in the Zoning Ordinance, except that the Planning Commission will only make recommendations for rejection, approval, or conditional approval of a preliminary site plan for a use requiring site plan approval by the Village

Council approval pursuant to Section 6.02(2) (A-C) and forward its recommendation to the Village Council for final action on the preliminary site plan. Any conditions required by the Planning Commission or Village Council for preliminary plan approval shall be stated in writing, together with the reasons, and delivered to the applicant. If denied, the Planning Commission or Village Council shall cite reasons for denial. If approved, the applicant may submit a final site plan for the development or a phase of the development. Decisions and recommendations by the Planning Commission shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the Planning Commission, and extension of time is necessary to adequately collect and review information pertinent to a decision or recommendation.

1. Approval of the preliminary site plan is valid for a period of six (6) months. If a final site plan for the development, or any phase of the development, has not been submitted during that period, the approval of the preliminary site plan shall be null and void. This time limit may not be extended by the Planning Commission. Preliminary site plans whose approval has expired shall be required to resubmit and be processed for approval according to this Section.

Section 6.07 CONFORMITY TO APPROVED SITE PLANS

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto, which have received approval from the body, which had approved the original site plan. If construction and development does not conform with such approved plans, the approval and any Village permit shall be revoked by the Zoning Administrator pursuant to the site, other than for the purpose of correcting the violation.

Section 6.08 CHANGE AND APPEALS

1. **Amendment to the Site Plan:** No changes shall be made to an approved Site Plan prior to or during construction except upon mutual agreement between the applicant and the Village or Zoning Administrator according to the following procedures:
 - A. **Minor Changes:** Minor changes to an approved Site Plan involving changes of less than five (5) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls' adjustment of utilities; and similar minor changes may be approved by the Zoning Administrator unless the Zoning Administrator defers judgment to the Planning Commission.
 - B. **Major Changes:** Major changes or amendments to an approved Site Plan involving changes in excess of five (5) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; and increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require the approval of the Planning Commission, or the Village Council in the case of a planned unit development project, in the same manner as the original application was submitted, reviewed, and approved and subject to the finding of all the following:
 1. Such changes will not adversely affect the initial basis for granting approval;
 2. Such changes will not adversely affect the overall project in light of the intent and purpose of Such development as set forth in this Article; and
 3. Such changes shall not result in the reduction of open space area as required herein.
2. **Appeals:** With regard to Site Plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner, as other administration decisions provided appeals of decisions for Planned Unit Development projects shall not be permitted.

Section 6.09 REVIEW FEES

A review fee may be required as determined by resolution of the Village Council based on the cost of Processing the review. (See Appendix A)

Article 7

PROCEDURES FOR SPECIAL LAND USES

Section 7.01 PURPOSE AND INTENT

1. **Special Land Uses:** It is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this Zoning Ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use in order to provide control and reasonable flexibility, this Article permits detailed review of certain specified types of special land use activities, which because of their particular and unique characteristics require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Special land uses are identified as such within the respective zoning district articles of this Ordinance and shall in no way be interpreted or acted upon as a request for a variance from the strict application of this Ordinance requirements. Land uses and structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a Zoning Permit for a Special Land Use. By such a procedure, the Planning Commission and Village Council shall have the opportunity to impose conditions upon each use, which are deemed necessary for the protection of the public welfare. Such conditions shall be based on standards in this ordinance.

2. **Planned Unit Developments:** It is also the intent of this Article to establish procedures, which offer an alternative to traditional residential and commercial development patterns through the use of planned unit development legislation, as authorized by Act 110 of 2006, The Michigan Zoning Enabling Act for the purpose of:
 - A. Encouraging the use of Village land in accordance with its character and adaptability;

 - B. Assuring the permanent preservation of open space, woodlands, and other natural resources;

 - C. Allowing innovation and greater flexibility in the design of developments;

 - D. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;

 - E. Ensuring compatibility of design and use between neighboring properties; and,

 - F. Encouraging a less sprawling form of development, this preserving open space as undeveloped land.

Approval standards for special land uses are included in Article 16, Standards for Special Land Uses, except that approval standards for planned unit developments are included in Article 17, Standards for Planned Unit Developments.

Section 7.02 PROCEDURES FOR SPECIAL LAND USES

An application for a Zoning Permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures pursuant to Public Act 110 of 2006 (502(1)),

- A. **Submission of Application:** Any person owning or having an ownership interest in the subject property may file an application for one (1) or more Zoning Permits for a special land use as provided for in this Ordinance. An application shall be accompanied by the payment of a fee as established for that purpose. Each application shall be accompanied by the payment of a fee as established by the Village Council to cover the costs of processing the application. (See Appendix A) Twenty-four (24) sets of the following materials, constituting the special land use application, shall be submitted to the Zoning Administrator at least thirty (30) days prior to the meeting at which the Planning Commission first considers the special land use application.

1. Special application form supplied by the Zoning Administrator.
 2. Site plan meeting the requirements of Section 6.03.
 3. Written statement of analysis regarding the estimated population holding capacity of any proposed residential land use, the anticipated impact upon community facilities, such as schools and infrastructure, the anticipated new traffic generation including available roadway capacities and impact upon neighboring land uses and streets.
- B. Check for Completeness and Accuracy:** Within ten (10) working days of the receipt of the submission of an application the Zoning Administrator shall determine whether it is in proper form and contains all required information for the Planning Commission to determine the degree of compliance with all applicable provisions of Article 16, Standards for Special Land Uses, or in the case of a planned unit development, Article 17, Standards for Planned Unit Developments.
- C. Forwarding of Application to Planning Commission:** Upon certification by the Zoning Administrator that the site plan and application form appear to be complete, seven (7) copies of the site plan shall be forwarded to the Planning Commission and, where Village Council approval is required, seven (7) copies forwarded to the Village Council. The Village Zoning Administrator may also submit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the application for a Special Land Use.
1. County Road Commission,
 2. County Health Department,
 3. County Drain Commissioner,
 4. Fire Department providing service to that part of the Village,
 5. Other agencies as relevant,
 6. Consultants retained by the Village for review of elements of the site plan.
- D. Planning Commission Action:**
1. **Application Review and Public Hearing:** The Planning Commission shall review the site plan and special land use application at its next scheduled meeting following receipt from the Village Zoning Administrator. The Planning Commission may, at its discretion, delay deliberating upon a site plan at its next regularly scheduled or special meeting if it has not received the site plan and zoning permit application from the Zoning Administrator at least seven (7) business days prior to such meeting. After adequate study and review, incorporating information provided by reviewing agencies listed above in Section 7.02(C), the Planning Commission shall provide a notice of public hearing in accord with the requirements of Act 110 of 2006. (See Section 3.02)
 2. **Planning Commissions Decision or Recommendation:** The Planning Commission shall deny, approve, or approve with conditions the application for special land use approval upon review of the special land use application, and a review of all supporting materials and any comments received at the public hearing, except in the case of a special land use application for a planned unit development (see (a) below). A written statement of findings and conclusions relative to the special land use, which specifies the basis for the decision and conditions imposed is required with any land use decision pursuant to Public Act 100 of 2006 (Section 502(4)) and (MCL 125.3502(4)). In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in Articles 16, Standards for Special Land Uses. A request for approval of a special land use or activity, which is in compliance with those standards, other applicable ordinances, and state and federal statutes, shall be approved. The Planning Commission may require that a performance guarantee, in accordance with Section 3.08 of this Ordinance, be deposited with the Village to insure completion of improvements.

- a. Upon review of a special land use application for a planned unit development, and a review of all supporting materials and any comments received at the public hearing, the Planning Commission shall recommend approval, denial, or approval with conditions regarding the Planned unit development and site plan and forward its recommendation to the Village Council for its consideration and final action. The Planning Commission shall state the reasons for the recommendation reached. The Planning commission may recommend to the Village Council that a performance guarantee, in accordance with Section 3.08 of this Ordinance, be deposited with the Village to insure completion of improvements. The Planning Commission's recommendation shall be incorporated in a statement of conclusions Relative to the special land use under consideration and shall specify the basis for the recommendation and any conditions recommended. In arriving at its recommendations, the Planning Commission shall refer to and be guided by those standards set forth in Articles 16, Standards for Special Land Uses, and Article 17, Standards for Planned Unit Developments.

E. **Village Council Action on Planned Unit Developments:** Following receipt of the Planning Commission's recommendation pertaining to the planned unit development request, the Village Council may hold a public hearing on the request pursuant to notification procedures of this ordinance. Upon review of the special land use application, all supporting materials, the hearing, and the recommendations of the Planning Commission, the Village Council shall, within sixty (60) days of the public hearing, approve, approve with conditions, or deny the planned unit development request unless the applicant and the Board agree to an extension of time, which shall be specified in the minutes. The Board shall prepare a report stating its conclusions regarding the request, the basis for its decision and any conditions relating to an affirmative decision. In arriving at its decision, the Village Council shall refer to and be guided by those standards set forth in Articles 16, Standards for Special land Uses, and Articles 17, Standards for Planned Unit Developments. The Village Council may require that a performance guarantee, in accordance with Section 3.08 of this Ordinance, be deposited with the Village to ensure completion of improvements.

- a. **Recording of Approval Action:** The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved planned unit development plan in a formal acceptable to the Arenac County Register of Deeds, unless an amendment is adopted by the Village. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Village Clerk.
- b. **Permit Issuance:** Upon receipt of the recorded documents, the Village Clerk shall direct the Zoning Administrator to issue a Zoning Permit for the planned unit development.

Section 7.03 APPEAL TO CIRCUIT COURT

An appeal on a special land use application decision may be taken to the Circuit Court.

Section 7.04 REAPPLICATION

No application for a Zoning Permit for a special land use, which has been denied wholly or in part by the Planning Commission or Village Council shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed Conditions. A reapplication shall require a new fee and the process will follow all provisions of Section 7.02.

Section 7.05 AMENDMENTS

1. **Site Plan:** The site plan, as approved, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Amendments to the approved Site Plan shall comply with the application and review procedures of Section 6.08.

2. **Use or Activity:** A change in the character of the use or activity from what the originally approved Zoning Permit for special land use authorized shall not occur until such change is applied for and approved according to the application and review procedures of this Article and all other applicable sections of this Ordinance. Changes requiring a new application and review procedure include, but shall not be limited to:
 - a. The addition of land to the legal description of the original special land use permit;
 - b. The establishment of another use or uses;
 - c. The addition of more sales or service area, or the addition of dwelling units; and
 - d. An expansion or increase in intensity of use.