

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41, STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
DEC 23 2004

MISCELLANEOUS
& STATE RECORDS

~~XX County XX~~
~~XX City XX~~ of Stark, County of Herkimer
Town
~~XX Village XX~~

Local Law No. 1 of the year 2004

A local law Land Use Regulations of the Town of Stark
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~XX County XX~~
~~XX City XX~~ of Stark as follows:
Town
~~XX Village XX~~

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2004 of the ~~(County)~~(City)(Town)(Village) of Stark was duly passed by the Town Board on December 7, 2004, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on_____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph_____, above.


 Clerk of the County of ~~XXXXXXXXXXXX~~ Town of ~~XXXXXXXXXXXX~~
~~XX~~


Date: 12-21-04

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
 COUNTY OF Herkimer

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


 Signature
 Town Attorney
 Title

~~XXXXXX~~
~~XXXXXX~~ of Stark
 Town
~~XXXXXX~~
 Village

Date: 12-21-04

Article I. General Provisions

Section 101. Title

This Local Law shall be known as "The Land Use Regulations of the Town of Stark, New York," hereafter referred to as "Land Use Regulations."

Section 102. Authority

These Land Use Regulations are enacted pursuant to the authority contained in Chapter 62 of the Consolidated Laws of New York State.

Section 103. Purposes

The Town Board of Stark deems it necessary for the promotion of health, safety, morals and the general welfare of the Town to regulate and restrict the height and size of buildings and other structures, the size of yards and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes. Therefore and based on the Town Comprehensive Plan, districts are created and regulations are hereby established to accomplish the following purposes:

- To protect all domestic water supplies, both private and municipal, from contamination by any conceivable source within the Town of Stark.
- To maintain the Town of Stark as an uncrowded and rural residential community having large, undeveloped areas.
- To protect attractive and important natural features such as streams, farmlands, woodlands, wildlife and scenic areas, wetlands, aquifer recharge areas and buildings or sites of historical significance.
- To provide for gradual, modest development in ways that will not create activities that would be destructive to present character of the Town.
- Without imposing unnecessary or excessive restrictions, to provide control of unsightly or potentially destructive land uses, including, but not limited to signs, solid waste disposal, junk storage and recycling processes.
- To provide for wide variety of residential structures, at densities and locations consistent with goals, objectives, and policies of the Comprehensive Plan.
- To provide control over mining, quarrying and timbering operations, ensuring that plans for initiating or expansions of such operation meet the standards of state and federal regulations.
- To provide, where practical, for limited expansions of existing non-residential uses as long as they do not conflict with the goals, objectives, and policies of the Comprehensive Plan.
- To prevent traffic congestion and to promote safe circulation of vehicles and pedestrians.
- To provide maximum protection of residential areas from the intrusions of incompatible land uses, from traffic, and from environmental pollution.

- To encourage development of land in such a way as to promote the most appropriate use of land, to conserve the natural and scenic qualities of open lands, and to enhance and protect the environmental quality.

Section 104. Effective Date

The Land Use Regulations shall be effective immediately upon filing with the New York State Secretary of State.

Section 105. Interpretation

- A. The Land Use Regulations shall be interpreted and applied with the understanding that its provisions represent the minimum requirements for the purpose of promoting the health, safety, convenience, comfort, and general welfare of the Town residents.
- B. The Land Use Regulations shall not interfere with, abrogate, or annul, any easement, covenant or other agreement between parties, provided, however, that when the Land Use Regulations provide a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or imposes any higher standards than are imposed or required by any other statute, law, ordinance, rule, regulation, or by any easement, covenant or agreement, the provisions of the Land Use Regulations shall control.
- C. Where the requirements of another statute, law, ordinance, rule or regulation conflict with the Land Use Regulations, the more restrictive provision shall govern.
- D. If any two or more provisions of the Land Use Regulations are found to be in conflict with one another, the strictest provision, or the one imposing the higher standard, shall govern.

Section 106. Applicability

- A. The Land Use Regulations and each and every one of its provisions shall apply to any land use, land alteration, construction or development of any kind in any area of the Town of Stark.

Article II. Basic Definitions

Section 201. Word Usage

- A. Unless a contrary intention clearly appears, the following words and phrases shall have for the purposes of the Land Use Regulations the meanings given below.
- B. For the purpose of the Land Use Regulations, words and terms used herein shall be interpreted as follows:
1. Words used in the present tense include the future.
 2. The singular includes the plural.
 3. The word "person" includes an individual, firm, partnership, corporation, company, association, or government entity including a trustee, a receiver, an assignee or similar representative.
 4. The word "lot" includes the word "plot" or "parcel."
 5. The term "shall" is mandatory.
 6. The word "used" or "Occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be occupied."
 7. The words "Board of Appeals" shall always mean the Board of Appeals for the Town of Stark.
 8. The words "Code Enforcement Officer" shall always mean the Town of Stark Code Enforcement Officer.
- C. Any word or term not defined herein shall be used with a meaning of standard usage.

Section 102. Basic Definitions

1. Block —A unit of land bounded by streets or by a combination of streets and public land, utility right-of-way, waterways or any other barrier to the continuity of development.
2. Building —A structure designed to be used as a place of occupancy, storage or shelter.
3. Building, Accessory —A subordinate structure that is occupied or devoted to an accessory use incidental to the principal use.
4. Building, Principal —A building in which the primary use of the lot on which the building is located is conducted.
5. Dwelling Unit —An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.
6. Family —One (1) or more persons occupying a single housekeeping unit and using common cooking facilities as distinguished from a group occupying a boarding or rooming house.
7. Lot —A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.
8. Lot Area - The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.
9. Lot Frontage - That side of a lot abutting on a street; the front lot line.

10. Lot Line--A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.
11. Right-of-way--A strip of land acquired by reservation, dedication, forced dedication, or condemnation and intended to be occupied by a street, road, crosswalk, trail, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer, or other similar use.
12. Setback--The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.
13. Setback Line--A line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side, or rear yard, or the boundary of any public right-of-way whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures, or uses.
14. Street--A public way used or intended to be used for passage or travel by motor vehicles. The term street shall include road and highway.
15. Structure--A combination of materials assembled, constructed or erected at a fixed location, the use of which requires location on the ground or attachment to something having location on the ground.
16. Structure. Accessory--A subordinate structure detached from but located on the same lot as a principal building. The use of an accessory structure must be identical and accessory to the use of the principal building. Accessory structures include garages, decks, and fences.
17. Use--Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or 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.
18. Use. Accessory--A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.
19. Use. Principal--The primary, predominant, or main use on a lot or tract of land.

Article III. Land Use Districts and Land Use District Map

Section 301. Land Use Districts Established

For the purposes of the Regulation, the Town of Stark is divided into the following classes of districts: Hamlet, Rural Agricultural, Commercial, and Planned Unit Development.

Section 302. Description of Land Use Districts

- A. II - Hamlet - Established to protect the unique character of the traditional Hamlets. The intent of this district is to encourage growth and development of a scope and nature that are compatible with the historic nature of the Hamlet. Hamlet district includes Van Hornesville and Starkville
- B. RA - Rural Agricultural — Established to preserve the primarily rural appearance and agricultural character of those areas which have traditionally had low levels of non-agricultural development. The areas are not served by public water or sewer facilities, and where the transportation system consists of very widely dispersed network of narrow minimally improved roads. Development standards for this district are intended to minimize demand for urban services and ensure that the rural community character of the area is maintained.
- C. PUD - Planned Unit Development - Established to accommodate projects planned and developed as a single entity that may contain diverse uses and various residential building types and compatible non-residential uses. PUD districts are also intended to promote creative, efficient, and more livable community design through a specialized project review process. PUD districts are not given specific locations on the District Map until a preliminary, but unified and cohesive plan for development is approved. PUDs include residential cluster developments.
- D. Natural Resource Protection Overlay District - A stream corridor overlay (SCO) district is established. This district is superimposed upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is permitted in the applicable overlay district.
- E. Commercial Districts - The purpose of this district is to provide areas for control and related commercial uses.

Section 303. Official Land Use District Map

- A. There shall be a map known and designated as the Official Land Use District Map, which shall show the boundaries of all land use districts within the Town's planning jurisdiction. The map shall be dated, shall be certified by the Town Clerk, and shall be kept in the office of the Clerk of the Town of Stark, and copies made available for sale to the public.
- B. The Official Land Use District Map dated October 20, 2003 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Article XI.

Section 304. Amendments to Official Land Use District Map

- A. Amendments to the Official Land Use District Map are accomplished using the same procedures that apply to other amendments in this Regulation, as set forth in Article XI.

B. The Town Clerk shall update the Official Land Use District Map as soon as possible after amendments to it are adopted by the Town Board. Upon entering any such amendment on the map, the Town clerk shall certify the changes, and change the date of the map to indicate its latest revision. New copies of the updated map may then be issued.

C. The Town Clerk shall keep copies of superseded prints of the Land Use District Map for historical reference.

Section 305. Interpretation of District Boundaries

A. Uncertainty with Respect to Boundaries - Where uncertainty exists with respect to the boundaries of the district as indicated on the Official Land Use District Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately coinciding with the center lines of streets, highways, or streams, such center lines shall be so construed to be such boundaries.
2. Where district boundaries are indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries; or where district boundaries are extension of lot lines of connect the intersections of lot lines, such lines shall be said district boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to center lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Land Use District Map.

B. Parcels in Two or More Land Use Districts

1. Whenever a single lot of two acres or less in size is located within two or more different official land use districts, the boundary of the land use district within which the larger portion of the lot is located may be deemed to extend up to fifty (50) more feet into the smaller portion of the lot.
2. Whenever a single lot greater than two (2) acres in size is located within two or more different land use districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

Article IV. Use Regulations

Section 401. Applicability of Regulations

Except as provided by law or in these Regulations, in each district no structure shall be constructed, erected, or extended and no building, structure, or land shall be used or occupied except for the uses permitted in the District.

Section 402. Use of the Designations "C," "S," and "A"

- A. When used in connection with a particular use in Section 405, Table of Land Uses by District, the letter "C" means that the use is permissible in the indicated district with the applicable permit issued by the Code Enforcement Officer.
- B. When used in connection with a particular use in Section 405, Table of Land Uses by District, the letter "S" means that the use is permissible in the indicated district after site plan review and approval by the Town Planning Board.
- C. When used in connection with a particular use in Section 405, Table of Land Uses by District, the letter "A" means that the use is permissible in the indicated district after a public hearing and approval of a special use permit by the Land Use Appeals Board

Section 403. Uses Subject to Other Regulations

- A. Uses permitted by appropriate permit or site plan approval shall be subjected in addition to use regulations, dimensional requirements, sign and parking regulations, and to such other provisions as are specified in other laws of the Town.
- B. In particular, the laws of the State of New York and the regulations of the Herkimer County Department of Health regarding water supply and waste disposal shall be adhered to. Further, no approval shall be granted until approval is obtained for the Herkimer County Department of Health for sewage disposal, unless the premises are served by public sewage facilities.

Section 404. Uses Permitted on Minimum Maintenance Roads

- A. Certain Town roads or sections of Town roads have been classified as a minimum maintenance road. A minimum maintenance road is a low-volume road or road segment that may be of a seasonal nature, having an average traffic volume of less than fifty vehicles per day and that principally or exclusively provides agricultural or recreational land access.
- B. All property abutting *only* on a minimum maintenance road and all property not abutting on a minimum maintenance road but having access by easement, right-of-way, or other means, from a minimum maintenance road only, shall be limited to structures used for seasonal or recreational use. No year-round residences or commercial or industrial buildings shall be allowed on the above defined property. No building permit application shall be approved for any such structures other than seasonally or recreational use as set forth herein.
- C. Reference to local law No.1 of 2003 of the town of Stark for a more particular description of minimum maintenance roads.

Section 405. Permissible Uses and Specific Exclusions

- A. Because the list of permissible uses set forth in Section 405 (Table of Permissible Uses) cannot be all inclusive, those uses that are listed shall be interpreted to include other uses that have similar impacts to the listed uses.
- B. All uses not listed in Section 405 (Table of Permissible Uses) which have impacts unlike those of the uses listed in Section 405 (Table of Permissible Uses) shall also not be interpreted to allow a use in one land use district when the use in question is more closely related to another specified use that is permissible in other land use districts.
- C. The following uses are specifically prohibited in all districts:
 - 1. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials including but not limited to such things as the manufacture or bulk storage of fireworks, or the storage of crude oil or any of its volatile products or other highly inflammable liquids in above-ground tanks.
 - 2. Solid waste management facility (including any facility which requires a permit under 6 NYCRR Part 360.
 - 3. Stockyards, slaughterhouses, rendering plants, junk yards, second hand material yards, or automobile graveyards.
 - 4. Use of a structure as a permanent residence that (i) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (ii) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definitional criteria of a manufactured home.
 - 5. Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.

Section 406. Table of Land Uses by Land Use Districts

C = permissible with the applicable permit issued by the Code Enforcement Officer

S = permissible after site plan review and approval by the Town Planning Board

A = permissible after a hearing and approval by the Land Use Board of Appeals

	Hamlet	Rural Agricultural	Planned Unit Development
A. AGRICULTURAL LAND USES			
A1 Agricultural	C	C	
B. RESIDENTIAL LAND USES			
B1 Single-Family Detached Dwelling	C	C	
B2 Manufacture Home	C	C	
B3 Planned Unit Development			S
C. INSTITUTIONAL LAND USES			
C1 Passive Outdoor Public	S	S	
C2 Active Outdoor Public Recreational	S	S	
C3 Indoor Institutional	S	S	
C4 Outdoor Institutional	S	S	
C5 Public Service and Utilities	S	S	
D. COMMERCIAL LAND USES			
D1 Administrative Office	S	S	
D2 Personal or Professional Office	S	S	
D3 Indoor Sales or Service	S	S	
D4 Outdoor Display	S	S	
D5 Indoor Commercial Entertainment	S	S	
D6 Communication Tower	A	A	
E. ACCESSORY LAND USES			
E1 Home Occupation	S	S	
E2 Accessory Apartment	S	S	

Section 407. Detailed Land Use Descriptions

A. AGRICULTURAL LAND USES

A1. Agricultural - The use of land for cultivation and husbandry, including, but not limited to dairying, pasturage agriculture, horticulture, aquaculture, floriculture, viticulture, silviculture, and animal and poultry husbandry, apiaries, and the necessary accessory uses for selling, packing, treating, or storing the produce grown on site; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

B. RESIDENTIAL USES

B1. Single-Family Detached Dwelling - A building containing one dwelling unit and surrounded by open space or yards and which is not attached to any other dwelling unit by any means.

B2. Manufactured Home - A manufactured house is a dwelling unit that (i) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on a built-in chassis system that serves as a structural foundation and (ii) is not constructed in accordance with standards set forth in the New York State Building Code, and (iii) is constructed to meet or exceed the Manufactured Home Construction and Safety-Standards promulgated by the U. S. Department of Housing and Urban Development.

C. INSTITUTIONAL LAND USES

C1. Passive Outdoor Public Recreational - Passive outdoor public recreational land uses include all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.

C2. Active Outdoor Public Recreational - Active outdoor public recreational land uses include all recreational land uses located on public property which involve active recreational activities. Such land uses include play courts (such as tennis courts and basketball courts), play fields, (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, fitness courses, public golf courses, and similar land uses.

C3. Indoor Institutional - Indoor institutional land uses include all indoor public and not for profit recreational facilities (such as gymnasiums, swimming pools, libraries, museums, and community centers), public and private schools, churches, nonprofit clubs, nonprofit civic organizations, nonprofit fraternal organizations, convention centers, and similar land uses.

C4. Outdoor Institutional - Outdoor institutional land uses include public and private cemeteries, privately held permanently protected green space areas, country clubs, non-public golf courses, and similar land uses.

C5. Public Service and Utilities - Public service and utilities land uses include all town, county, state, and federal facilities (except those otherwise treated in this Section), emergency services facilities such as fire departments and rescue operations, waste water treatment plants, public and private utility substations, water towers, utility and public service related distribution facilities including conventional television, radio, and microwave communications antennas, and similar land uses.

D. COMMERCIAL LAND USES

D1. Administrative Office - Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide service directly to customers on a walk-in or on appointment basis.

D2. Personal or Professional Service - Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services (except banking services) directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include professional services, insurance services, realty offices, financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, tanning salons, and related land uses.

D3. Indoor Sales or Service - Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or non-personal services, non-professional services, or banking services entirely within an enclosed building.

D4. Outdoor Display — Outdoor display land uses include all land uses which conduct sales, display sales or rental merchandise or equipment outside of an enclosed building. Examples of such land uses include vehicle sales, vehicle rental, manufactured housing sales and monument sales. The area of outdoor sales shall be calculated as the area that would be enclosed by a fence installed and continually maintained in the most efficient manner and which would completely enclose all materials displayed outdoors. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard.

D5. Indoor Commercial Entertainment - Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, food stores, and bowling alleys.

D6. Communication Tower - Communication towers include all free-standing broadcasting, receiving or relay structures, and similar principal land uses; and any office, studio, or other land uses directly related to the function of the tower.

E. ACCESSORY USES

E1. Home Occupation - An accessory use of a dwelling unit or accessory building for gainful employment which: (i) is clearly incidental and subordinate to the use of the dwelling unit as a residence; (ii) does not alter or change the exterior character or appearance of the dwelling; (iii) results in no exterior storage; and (iv) employs no more than two individuals not residing in the dwelling.

E2. Accessory Apartment - A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

Article V. Dimensional Regulations

Section 501. General Dimensional Regulations

A. Definitions

1. Yard - An open space that lies between the principal building or buildings and the nearest lot line.
 2. Yard Depth - The shortest distance between a lot line and a setback line.
 3. Yard Required - The open space between a lot line and the setback line within which no structure shall be located except as provided in this Regulation.
- B. District Regulations - The regulations for each district pertaining to minimum lot area, minimum lot width, minimum required yards, maximum building height, and maximum lot coverage shall be as specified in Table 501, "Table of Dimensional Requirements for Principal Uses," which follows, subject to any further applicable provisions in this Article and in Article XX, related to Planned Unit Developments.
- C. Residential Density - Every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the Table of Dimensional Requirements for Principal Uses
- D. Measurement of Setbacks when Parcel Boundaries are Contained within Highway Rights-Of-Way - For the purposes of applying the standards set forth in this Article, in cases when any portion of the boundary of a parcel lies within a highway right-of-way (such as when the boundary coincides with the centerline of a road), the portion of the edge of such right-of-way which is contained within the lot shall be considered a front, side, or rear lot line as applicable.

Section 501. Table of Dimensional Requirements for Principal Uses

	Hamlet (H)	Rural-Agricultural (RA)
Minimum Lot Area		2 acres
Minimum Lot Width	Section 905	200 foot
Minimum Front Yard	Page 28	50 foot
Minimum Side Yards: Total/One	(Non-conforming Lots)	100 foot/50 foot
Minimum Rear Yard		50 foot
Maximum Building Height		35 foot
Maximum Lot Coverage (%)		8%

Section 502. Lot Area and Lot Width Regulation

A. Definitions

1. Lot Area - The total area within the lot lines of a lot, excluding and street rights-of-way.
2. Lot Width - The horizontal distance between the sidelines of a lot measured at right angles to its depth along a straight line parallel to the front setback line.

Section 503. Front Yard Regulations

A. Definitions

1. Subject to the provisions set forth in paragraph two below, a front yard is a space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building (inclusive of open porches, steps and overhanging eaves and cornices) at the closest point to the front lot line.
2. In cases where the front lot line lies within a highway right-of-way, the front yard is the space extending the full width of the lot between any building an right-of-way and measured perpendicular to the building at the closet point to the edge of the right-of-way.
3. In the case of a corner lot, any yard extending along the full length of a street line shall be considered a front yard.

B. Accessory Buildings - No accessory building shall intrude into a required front yard.

Section 504. Side Yard Regulations

A. Definitions

1. A side yard is a space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

C. Side Yards on Corner Lots - In the case of a corner lot, yards with a minimum depth equal to the required front yard depth shall be provided on each street side of the lot.

Section 505. Rear Yard Regulations

A. Definition

1. A rear yard is a space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular from the rear lot line to the closest point of the principal building.

Section 506. Height of Structure Regulations

A. Definition

1. The height of a structure other than a building is the vertical distance of the structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure. The height of a building is the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between eaves and the ridge level for gable, hip, and gambrel roofs.
2. There shall be no height limit on agricultural buildings or structures intended for agricultural purposes.

Section 507. Lot Coverage Regulations

A. Definition

1. The percentage of the area of a lot that is covered by buildings, principal and accessory.

Article VI. Natural Resource Protection Overlay District

Section 601. Stream Corridors Overlay District (SCOD)

A. Definitions

1. Ordinary High Water Mark—the line between upland and bottom land which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.
2. Stream Corridor—areas which lie between the centerline of a watercourse and a line one hundred (100) feet horizontal from and perpendicular to the ordinary high water mark on either side of the watercourse.
3. Watercourse—any stream, river, creek, or brook in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks.

B. Purpose

Stream corridors serve many natural functions that promote and protect the public health, safety, and general welfare. They transport surface and storm water to downstream areas, supplement flood plain and wetland water storage functions in heavy storm or melt events, filter water-borne pollutants and sediments, promote infiltration and groundwater recharging, and provide unique plant and animal habitat. Stream corridors also provide recreational amenities and enhance the aesthetic quality of the community. The purpose of the stream corridors overlay district is to protect these functions by minimizing impacts of development on the stream corridor.

C. District Boundaries

1. The stream corridor overlay district shall include all areas which lie between the centerline of a watercourse and a line one hundred (100) feet horizontal from and perpendicular to the ordinary high water mark on either side of the watercourse. The New York State Department of Environmental Conservation has produced a map titled Hydro logic Features, which shows the locations of all watercourses within the jurisdiction of the Town of Stark. The Hydro logic Features Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be part of the Regulation. The October 20, 2003 map shall be on file in the office of the Town Clerk.
2. 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 be located within a stream corridor, the applicant shall be required to determine the boundaries of the stream corridor through the performance of a field survey applying the stream corridor definition. Evidence documenting the results of the boundary survey may also be required.

D. Structures

1. No structures, except for fences, boat launching sites, boathouse, poles, lean-tos, docks, bridges, and fisherman parking areas shall be constructed inside the ordinary high water mark of a watercourse.
2. No structures over five hundred (500) square feet in ground floor area shall be constructed in the stream corridor overlay district.
3. Structures in the stream corridor overlay district shall be screened from the view of persons who may be on the stream by vegetation or topographic features.

E. Highways and Roads

1. No new public or private road or extension of a public or private road shall be located within the stream corridor overlay district except for such roads as are necessary for crossing the watercourse for purpose of traffic safety, fire access, or access to otherwise landlocked parcels.
2. Any private road or extension of a private road located as provided in paragraph (E)1 above shall be open to the general public.

F. Grading and Filling

No new fills shall be placed inside the ordinary high water mark of a watercourse.

G. Utilities

1. Major utility transmission facilities as defined in Article VII of the NYS Public Service Law shall be limited to locations where structures, support structures, lines, cables, pipes, and other associated equipment and accessories will be located only at watercourse crossings. In addition, such structures and facilities shall be located only where the impact on the scenic qualities of the stream corridor can be minimized.
2. New watercourse crossings by utility uses shall be minimized and shall be limited to the extent feasible to those points along a stream corridor where crossings already exist.
3. A stream corridor utility use under these guidelines shall be located, designed, and constructed so as to avoid undue adverse environmental impact and to minimize visibility from the watercourse and the stream corridor of structures, support structures, lines, cables, pipes, and other associated equipment and accessories.

H. Vegetative Cutting (Logging)

1. Forest management roads or skid trails shall not be allowed inside the ordinary high water mark and they shall be allowed at a distance from the ordinary high water mark that is consistent with the following criteria for establishing buffer strips for logging areas:

Slope of Land	Width of Buffer Strip for Logging Areas (feet)
0% - 9 %	25
10%-19%	45
20%-29%	65
30%-39%	85

2. Forest management roads or skid trails shall not be allowed on slopes of 30% or greater in the stream corridor overlay district.
3. Timber harvesting is permissible within the buffer strip provided for in paragraph (H)1 above on the condition that not more than one third of the crown canopy is removed within any ten (10) year period. On slopes of 30% or greater within the stream corridor overlay district, not more than one third of the crown canopy shall be removed within any ten (10) year period.
4. The harvesting, cutting, culling, removal, or thinning of vegetation on pasture and cultivated land devoted to agriculture within the ordinary high water mark of a watercourse or within fifty (50) feet of such mark shall be allowed provided that a buffer strip containing woody shrubs or trees is retained sufficient to maintain the stability of the stream bank and minimize stream bank erosion and direct runoff to the watercourse.
5. The above current standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that presents safety, environmental, or health hazards; nor should these standards be deemed to prevent the cutting of firewood by the owner of land within the stream corridor overlay district for personal use in his or her own dwelling, provided that alternative sites for the cutting of such firewood are not readily available to the landowner.

Article VII. Signs

Section 701. Signs

A. Purposes of Sign Regulations

1. To encourage the effective use of signs as a means of communication in the Town;
2. To maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth;
3. To improve pedestrian and traffic safety;
4. To minimize the possible adverse effect of signs on nearby public and private property; and
5. To enable the fair and consistent enforcement of these sign restrictions.

B. Definitions

1. Sign—Any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right-of-way or other properties. The term "sign" shall not include any flag, badge, or insignia of any governmental units, nor shall it include any item of merchandise normally displayed within a show window of a business.
2. Sign, flashing—Any illuminated sign on which the artificial light is not maintained stationary or consistent in intensity and color at all times when such is in use. Any moving, illuminated sign shall be considered a "flashing sign." Such signs shall not be deemed to include time and temperature signs or public message displays using electronic switching.
3. Sign, freestanding—Any sign supported wholly or in part by some structure other than the building or building housing the business to which the sign pertains, or any sign which projects more than five feet from the side of the building to which it is attached.
4. Sign, home occupation—A sign containing only the name and occupation of a permitted home occupation.
5. Sign, identification—A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization, or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed. Also, a permanent sign announcing the name of a subdivision, shopping center, tourist home, group housing project, church school, park, or public or quasi-public structure, facility, or development and the name of the owners or developers.
6. Sign, illuminated direct—A sign whose light source is either located in the interior of the sign or that the rays go through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign.
7. Sign, illuminated indirect—A sign illuminated primarily by light directed toward or across it or by back lighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing, reflectorized signs depending on

automobile headlights for an image in periods of darkness shall be construed to be indirectly illuminated signs.

8. Sign, mobile—A sign attached to, mounted, pasted, painted, or drawn on any vehicle, whether motorized or drawn, that is placed, parked, or maintained at one particular location for the express purpose and intent of promotion or conveying an advertising message.
9. Sign, official traffic and street—Any sign installed within public right-of-way by the State of New York or the Town to direct or control vehicular, pedestrian, and bicycle traffic, identify streets, parks, historical events, or provide other information deemed appropriate
10. Sign, political—A sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.
11. Sign, portable—A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include, but are not limited to, signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.
12. Signs, real estate—A temporary sign that relates to the sale, lease, or rental of property or buildings.
13. Sign, temporary—Any sign, banner, pennant, or advertising display intended to be displayed for a limited time period. Easily removed signs attached to windows are considered temporary signs.
14. Sign, wall—A sign mounted flat against and projecting less than 14 inches from, or painted on the wall of, a building or structure with the exposed face of the sign in a plane parallel to the face of the wall. This does not include window signs.

C. Regulations

1. No commercial sign shall be erected, constructed, or placed on a parcel unless in compliance with this Article.
2. A maximum of two signs for commercial purposes shall be permitted per parcel of property. One such sign must be affixed to a building. The other may be freestanding or attached to a building, one or two sided, and shall not exceed four feet by eight feet. If there is only one sign, it may be freestanding, no larger than four feet by eight feet, or attached to a building. A freestanding sign shall not exceed fifteen feet in height.
3. Signs which are temporary in nature, such as a "for sale" or "for rent" sign, or a "political sign," are exempt from this Regulation. All temporary signs must be removed within seven days of the event advertised.
4. Signs shall be constructed of durable materials and shall be maintained in good condition. Signs that are permitted to deteriorate shall be removed by the owner not less than seven days upon written notification by the Code Enforcement Officer. Upon the failure by the owner to remove the sign within said seven days the sign shall be removed by the Code Enforcement Officer and any expense incurred in such removal shall be borne by the owner of the sign.
5. No sign shall project beyond property lines.
6. No sign shall be erected which may cause hazardous or unsafe conditions. The owner of any such sign shall remove the sign in accordance with the procedure of paragraph four of this subsection.

7. No sign, other than an official traffic sign or public notice approved by the applicable jurisdiction, shall be erected within the right-of-way line of any public street or road.
8. Non illuminated political signs not to exceed twelve square feet are permitted thirty days before an election subject to the approval of the property owner and removed within one week following the election.
9. No sign shall have a source of illumination directed toward a public street or adjacent property.
10. Any sign with flashing or intermittent illumination shall not be permitted at any location in the Town.
11. Mobile or portable signs are prohibited at any location in the Town.
12. Directly illuminated or neon exterior signs are permitted only with site plan review.

Article VIII. Parking

Section 801. Parking Regulations

Use	Minimum Off-Street Parking Requirement Requirement
Residential Uses	2 spaces for each dwelling unit
Home Occupation	1 space in addition to the parking required for the dwelling unit and 1 space for employee who is not a resident of the dwelling.
All other uses	To be determined at the time of site plan review.

Article IX. Nonconforming Situations

Section 901. Definitions

- A. Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in the Subsection shall have the meaning indicated when used in the Regulation.
1. **Dimensional Nonconformity**—A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
 2. **Nonconforming Lot**—A lot existing as the effective date of the Regulation (and not created for the purposes of evading the restrictions of this Regulation) that does not meet The minimum area requirement of the district in which the lot is located.
 3. **Nonconforming Use**—A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residential district is a nonconforming use.)
 4. **Effective Date**—Whenever this Section refers to the effective date of the Regulations (i.e., MM. DD. YYYY), the reference shall be deemed to include the effective date of any amendments to this Regulation if the amendment, rather than this Regulation as originally adopted on, creates a nonconforming situation.

Section 902. Extension or Enlargement

- A. A nonconforming building or use may be continued provided that no such building or structure may be enlarged or altered in a way which increases its nonconformity, and no such use shall be enlarged or increased to occupy a greater area of land than was occupied at the date it became a nonconforming building.
- B. Any nonconforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such, as of the effective date of this Regulation

Section 903. Repair, Maintenance, and Reconstruction

- A. A nonconforming use may not be changed to another nonconforming use disallowed by this Regulation.
- B. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of building, provided that the cubical content of the building as it existed at the time of becoming nonconforming shall not be increased.

- C. Nothing in this Regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared to be unsafe by any town official charged with protecting the public safety, upon order of such official.

Section 904. Abandonment or Change in Use of Building or Property

- A. A nonconforming building or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:
 - 1. Either a nonconforming building or use has once been changed to a conforming use;
 - 2. A nonconforming use of land ceases for any reason for a period of more than thirty (30) days.
 - 3. A nonconforming use of a building that has been discontinued or abandoned for a consecutive period of six (6) months or for eighteen (18) months during any three (3) year period;
 - 4. If a nonconforming building has been destroyed by any means, it may be rebuilt and reoccupied as a nonconforming building only if reconstructed within in year with the same or less cubical content and with the same general layout as that of the original structure.

Section 90S. Nonconforming Lots

Notwithstanding the minimum lot area requirements, in any district in which structures are permitted, a Structure may be erected on a lot which was a lot of record, even though such lot fails to meet the present requirements for frontage or area, or both, that are applicable for that use in the district allowed; provided, however, that such lot is not contiguous with another lot or lots in the same ownership, provided that the property has received, if appropriate, a septic permit and further provided that the district's minimum front, side and rear yard setbacks are satisfied. If a lot that fails to meet the present requirements for frontage or area or both adjoins another lot in common ownership, they shall be considered as one parcel

Section 906. Alteration of Pre-existing Dwellings

The Land Use Board of Appeals may authorize the alteration of a single family detached dwelling, existing on the effective date of this Regulation, for two family apartment use provided:

- A. That after alteration of the building, the area of the lot upon which the building is located amounts to not less than five thousand (5,000) square feet for each dwelling unit;
- B. That no dwelling unit shall have less total floor area than six hundred (600) square feet used for living purposes; and
- C. That there is no exterior alteration of the building except as may be necessary for safety and for improved access to the building,

Article X. Administrative Mechanisms

Section 1001. Planning Board - Administration

A. Appointment

The Town Board is empowered to appoint a Planning Board of five members for staggered five year terms, designate the chairperson thereof, and to provide for compensation to be paid to the members of the Planning Board. In making such appointments, the Town Board may require planning board members to complete training and continuing education courses in accordance with any local requirements for the training of such members.

If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. Town Board members are not eligible for membership on the Planning Board. The town board has the authority to remove any members of the Planning Board for cause and after public hearing. The Town Board may, after a public hearing, remove any planning Board members for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law.

B. Appropriations

The Town Board is authorized and empowered to make such appropriations as it may see fit for Planning Board Expenses. The Planning Board has the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefor by the Town Board for the Planning Board.

C. Chairperson Duties

All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as the Planning Board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

D. Rules and Regulations

The Planning Board may, after public hearing, recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Regulation or any other statute, or under any local law or ordinance of the Town. Adoption of any such recommendations by the Town Board shall be by local law.

E. Referrals of Matters to Planning Board

The Town Board may by resolution provide for the reference of any matter or class of matters, other than those referred to in "D" above, to the Planning Board before final action is taken thereon by the Town Board or other office or officer of the Town having final authority over said matter. The Town Board may further stipulate that final action thereon shall not be taken until the Planning Board has submitted its report hereon, or has had a reasonable time, to be fixed by the Town Board in said resolution, to submit the report.

E. Required Referrals to County Planning Board

Pursuant of Section 239-l, m, and n of New York State General Municipal Law, any such non-ministerial zoning or subdivision action must be referred to the County Planning Board for review, if such actions involving real property lying within five-hundred feet of the following:

1. A municipal boundary;

2. The right-of-way of an existing county or state road;
3. The boundary of a county or state park or recreational area;
4. The boundary of any county or state owned property on which a public building or institution is located; or
5. The boundary of a farm operation located within an Agricultural District, as defined by Article 25-AA of the Agricultural & Markets Law (excluding area variances).

F. Power to Make Investigations and Reports

The Planning Board shall have full power and authority to make such investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the Town as it seems desirable, providing the total expenditures of the Planning Board shall not exceed the appropriation provided therefor.

Section 1002. Planning Board - Site Plan Review

A. General Provisions

1. Purpose - It is the intent of this Section to promote the development of an attractive and well-ordered community, ensure the safe and efficient movement of traffic, further the comprehensive planning of the Town and best serve the interests of public health, safety, and general welfare by regulating land use activity through review and approval of site plans. This Section is further intended to provide for orderly and expeditious processing of site plan applications and to ensure that the evaluation of site plans is based on established site design criteria..
2. Definition of Site Plan - A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this Regulation, which shows the arrangement, layout and design of the proposed use of an individual parcel of land as shown on said plan..
3. Site Plan Approval Required for Specified Uses - Site plan approval by the Planning Board is required for uses so indicated in the Table of Land Uses (Section 405).

B. Initial Conference

1. An initial conference may be held between the applicant and the Planning Board or its representatives 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 or its representatives of the proposal prior to the preparation of a detailed site plan, and for the Planning Board or its representatives 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:
2. 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, buffer strips (where required), 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;
3. A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, properties, easements and other pertinent features; and

4. A topographic or contour map of adequate scale and detail to show site topography

C. Site Plan Approval

1. 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 checklist provided in Subsection F through I below Six (6) copies of all drawings and other written and graphic materials included in the application shall be submitted.
2. General Findings - As a prerequisite to the approval of any site plan, the following general findings shall be made:
 - a. The development is arranged, laid out and designed:
 - i. to be physically and visually compatible with properties in the general neighborhood: and to avoid adversely impacting the character or integrity of any land use within the immediate neighborhood having a unique cultural, historical, geographical, architectural, or other special characteristics;
 - ii. to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities for neighboring properties;
 - iii. to provide adequate access to lots and sites;
 - iv. to provide maximum amenities available to the site, taking into account the functional requirements of the proposed use(s);
 - v. to conserve the natural features of the site; and to minimize negative impacts and alteration of natural features;
 - b. The proposed development will be provided with adequate supporting services such as adequate fire and police protection, public and private utilities and all other supporting governmental services necessary and appropriate to the proposed use(s);
 - c. The proposed development is consistent with all existing local and regional plans for the surrounding community;
 - d. The proposed use complies with all other applicable regulations of the Regulation inclusive of specific district controls and controls applicable to all districts, and all other applicable local, state and federal regulations.

3. Planning Board Action on Site Plans

- a. Action by the Planning Board - Within sixty-two days of the receipt by the Planning Board of a complete application for site plan approval (including a site plan in final form) the Planning Board shall by resolution approve, approve with modifications or disapprove the subject site plan. The time period specified in the preceding sentence may be extended by mutual consent of the applicant and the planning Board. The ground for a modification if any, or the ground for disapproval shall be slated upon the records of the Planning Board.
- b. Failure of the Planning Board to take Action - In the event the Planning Board fails to take action on an application for site plan approval within the time prescribed therefore, the subject site plan shall be deemed approved and a certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient evidence of approval of said site plan.

- c. Conditions Attached to the Approval of Site Plans - The Planning Board shall have the authority to impose such reasonable conditions and restriction as are directly related to and incidental to the proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of the applicable permit by the Code Enforcement Officer.
- d. Expiration of the Conditional approval - Conditional approval of a site plan shall expire within one hundred eight (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as complete. The time period specified in the previous sentence may be extended by the Planning Board to two additional periods on ninety (90) days each if, in the opinion of the Planning Board, such extension is warranted by the particular circumstances of the subject application..

4. Fees

- a. Each applicant shall pay a fee of \$150.00 at the time of filing an application for site plan approval. The fee may be waived by the Planning Board if no expenses related to the review are anticipated, such fees may be amended by resolution of the Planning Board.
 - b. Each applicant shall pay the fees charged to the Planning Board for legal, engineering, and other professional services that it requires in reviewing and acting upon any such application.
 - c. The Planning Board shall from time to time during its review of the project revise the estimated fees, if appropriate, and require additional payments
5. Performance Guarantee - No occupancy of any structure shall be permitted until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Board after consultations with the Planning Board, Code Enforcement Officer, Town Attorney and other appropriate agencies.

D. Site Plan Information Checklist - Project Information

- 1. Name, address of owner and applicant;
- 2. Source of title;
- 3. Name, signature, license number, seal and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of site plan;
- 4. Title block denoting type of application, tax map sheet, block and lot, and street location.
- 5. A location map showing location and boundaries of the tract with reference to surrounding properties, existing and proposed streets, municipal boundaries, etc., within five hundred (500) feet; date of current survey;
- 6. North arrow and scale;
- 7. Signature blocks for Planning Board Chairperson, Town Engineer, and Town Attorney;
- 8. For tract boundary lines and all proposed street rights-of-way: accurate dimensions, bearing or deflection angles of all straight lines; except interior parallel lines bound by their outermost parallel lines which are prescribed by dimensions and bearings; reference to control points; error of closure may not exceed 1 foot in 5000 and radii, arcs, and central angles of all curves;

9. Primary control points, or descriptions and ties to such control points to which all dimensions, angles, bearings, and similar data on map are referred;
10. Drawings showing cross-sections and centerline profiles of proposed streets,
11. Acreage of tract to the nearest tenth of an acre;
12. Date of original and all revisions:
 - a. Size and location of any existing or proposed structures with all setbacks dimensioned;
 - b. Total number of dwelling units and number of dwelling units by type;
13. Square footage of living area in dwelling units;
14. Proposed method of ownership of dwelling units
15. Location and dimensions of any existing or proposed pedestrian rights-of-way;
16. Area of lots in square feet;
17. Copy and delineation of any existing or proposed deed restrictions or covenants (including proposed covenants concerning ownership and maintenance of common lands);
18. Proposed agreements with the Town for the acceptance of all utilities and streets to be constructed by the developer;
19. Any existing or proposed easement or land reserved for or dedicated to public use,
20. Development stages or staging plans;
21. List of required regulatory approvals or permits.

E. Site Plan Information Checklist - Environmental Information

1. Property owners and lines of all parcels within 200 feet identified on most recent tax map sheet;
2. Names of adjoining subdivisions;
3. All existing watercourses and natural resource protection overlay district lands;
4. Other significant environmental features within 400 feet of any part of the site, as taken from information available by the Herkimer County Planning Commission;
5. Copy of the Herkimer County Soil Survey indicating project boundaries, with a table listing soil features affecting development for each soil type in the project;
6. Existing rights-of-way and easements on and within two hundred (200) feet of tract;
7. Existing and proposed contour intervals based on USGS data as follows: for areas having a slope of ten percent and less, contour lines at two foot intervals and for areas having a slope of greater than ten percent, contour lines at five foot intervals;
8. Boundary, limits, nature and extent of wooded areas and specimen trees;

9. Existing system of drainage of subject site and of any larger tract or basin of which it is a part:
10. Location and results of percolation test sites if subsurface sewage disposal is proposed:
11. Completed Environmental Assessment Form (EAF) as specified by the Planning Board;
12. Letters from the Fire Chief and Superintendent of Schools explaining any concerns they may have regarding the proposed project.

F. Site plan Information Checklist - Project information -Improvements and Construction Information

1. Proposed utility infrastructure plans, including sanitary sewer, water, telephone, electric, and cable TV;
2. When required by the Planning Board a storm water management plan including a report describing storm drainage peak flows for the subject property before and after development, the effects of the development on downstream facilities, and the basis of design of any proposed detention areas;
3. Soil erosion and sediment control plan (if soil disturbance over 5,000 square feet or if the Planning Board requires it due to severe topography);
4. A plan for controlling dust during construction including a report describing proposed dust control measures;
5. Spot and finished elevations of all property corners, corners of all structures or dwellings, existing or proposed first floor elevations;
6. Construction details as required by the Planning Board
7. Road and paving cross-sections and profiles;
8. Proposed street names;
9. Lighting plan and details;
10. Landscape plan and details;
11. Solid waste management plan;
12. Site identification signs, traffic control signs, and directional signs:
13. Sight triangles;
14. Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions; and
15. Preliminary architectural plan and elevations.

- G. Such other Information, Certificates, and Agreements Considered Necessary by the Planning Board for Proper Site Plan Review.

Section 1003. Land Use Board of Appeals

A. Administration

1. Establishment of Board—The Land Use Board of Appeals is established in order that the objectives of the Regulation may be fully and equitably achieved and that a means for competent interpretation of the Regulation is provided.
2. Definitions—As used in this Section:
 - a. "Use variance" shall mean the authorization by the Land Use Board of Appeals the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable land use regulations.
 - b. "Area variance" shall mean the authorization by the Land Use Board of Appeals for the use of land in a manner that is not allowed by the dimensional requirements of the applicable land use regulation.
 - c. "Special permit" shall mean the authorization by the Land Use Board of Appeals the use of land for a use identified in Section 403 by a letter "A" and for no other use.
3. Appointment of Members—The Town Board appoints a Land Use Board of Appeals consisting of five members [check State Law re five or seven] and shall designate the chairperson thereof. In the absence of a chairperson, the Land Use Board of Appeals may designate a member to serve as acting chairperson.
4. Compensation for Experts—The Town Board may provide for compensation to be paid to experts and a secretary and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purposes.
5. Training—In making appointments to the Land Use Board of Appeals the Town Board may require Land Use Board of Appeals members to complete training and continuing education courses.
6. Removal—The Town Board has the power to remove, after public hearing, any member of the Land Use Board of Appeals for cause and may provide for the removal, after public hearing, of any Land Use Board of Appeals member for non-compliance with minimum requirements relating to meeting attendance and training that are established by the Town Board.
7. Chairperson Duties—All meetings, of the Land Use Board of Appeals shall be held to the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

B. Procedure

1. Meetings, Minutes, Records—Meetings of the Land Use Board of Appeals shall be open to the public to the extent provided in Article seven of the public officers law. The Land Use Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official business.
2. Filing of Decisions—Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Land Use Board of Appeals shall be filed in the office of the Town Clerk within five business days. A copy thereof shall be mailed to the applicant, and it shall be a public record.

3. Assistance to the Land Use Board of Appeals—The Land Use Board of Appeals shall have the authority to call upon any agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board.
4. Hearing Appeals—Unless otherwise provided by the Town Board of this Regulation, the jurisdiction of the Land Use Board of Appeals shall be appellate only, and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer, who is charged with the enforcement of this Regulation. Such appeal may be taken by any person aggrieved, or by an officer or board or of the Town.
5. Vote Required—The concurring vote of a majority of the members of the Land Use Board of Appeals shall be necessary to reverse any order, requirement decision or determination of the Code Enforcement Officer, or to grant a use variance or area variance.
6. Notice and Hearing—The Land Use Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in the designated paper of general circulation in the Town at least five days prior to the date thereof. The costs of sending or publishing any notice relating to such appeal shall be borne by the appealing party and shall be paid to the Land Use Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
7. Time of Decision—The Land Use Board of Appeals shall decide upon the appeal with sixty-two days after conducting of said hearing. The time within which the Land Use Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Land Use Board of Appeals.
8. Referrals—At least five days before such hearing, the Land Use Board of Appeals shall mail notices thereof to the parties and to the planning agencies as required by Section 239m of the general municipal law, such notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of Section 239m of the general municipal law.
9. Compliance with State Environmental Quality Review Act—The Land Use Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article eight of the Environmental conservation law and its implementing regulations.

C. Permitted Actions

1. Interpretation Power—The Land Use Board of Appeals may reverse or affirm, wholly or partly, or may modify the orders, requirements, decisions, interpretations, determinations as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the power of the Code Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use Variances
 - a. The Land Use Board of Appeals, on appeal from the decision or determination of the administrative official changed with the enforcement of the Regulation, shall have the power to grant use variances, as defined herein.
 - b. No such use variances shall be granted by the Land Use Board of Appeals without a showing by the applicant that applicable land use regulations and restrictions have caused unnecessary hardship.

- c. In order to prove such unnecessary hardship the applicant shall demonstrate to the Land Use Board of Appeals that:
 - i. under applicable land use regulations the applicant is deprived of all economic use or benefit from the property in question which deprivation must be established by competent financial evidence;
 - ii. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - iii. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - iv. that the alleged hardship has not been self-created
- d. The Land Use 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.

3. Area Variances

- a. The Land Use Board of Appeals shall have the power, upon an appeal from a decision or determination of the administration official charged with the enforcement of this Regulation, to grant area variances, as defined herein.
- b. In making its determination the Land Use 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 Land Use Board of Appeals shall also consider:
 - i. 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;
 - ii. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - iii. Whether the requested area variance is substantial;
 - iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Land Use Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- c. Minimum Variance Necessary — The Land Use 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.
- 4. Special Permits — The Land Use Board of Appeals is authorized to grant a special permit for any uses listed in Section 404 with the designation "A" only if it finds adequate evidence presented by the applicant that the proposed special permit is duly authorized under provisions of this Regulation, that the application falls within the terms of the specific provisions allowing for

special permits, and that the proposed use complies with all other requirements of the Regulation. The Land Use Board of Appeals shall refuse an application for a special permit where opponents to the application established by a preponderance of evidence that the application is contrary to the health, safety, and morals or general welfare of the Town at large.

- a. **Required Plan**—A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a Special Permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed Special Use meets the requirements of this Regulation.
- b. **General Requirements and Standards Applicable to All Special Permits**—The Land Use Board of Appeals shall, among other things, require that any proposed use and location be
 - i. in accordance with the Town Comprehensive Plan and consistent with the spirit, purposes, and intent of this Regulation;
 - ii. in the best interests of the Town, the convenience of the community public welfare;
 - iii. suitable for the property in question, and designed, constructed, operated, and maintained maintained so as to be in harmony with, and appropriate in appearance to, the existing or intended character of the general vicinity;
 - iv. provided with adequate open space and appropriate treatment of the grounds;
 - v. suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
 - vi. in conformance with applicable requirements of this Regulation.

Imposition of Conditions—The Land Use Board of Appeals shall, in the granting of use variances, area variances and special permits, have the authority to impose such conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Regulation, and shall be imposed for the purpose of minimizing any adverse impact a use variance may have on the neighborhood or community.

Section 1004. Code Enforcement Officer

A. Duties and Powers

The provisions of this Regulation shall be administered and enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. It shall be the duty of the Code Enforcement Officer and he/she shall have the power to:

1. Receive and examine all applications for permits.
2. Process permit applications for all permitted uses.
3. The Code Enforcement Officer shall issue certificates of occupancy only where there is compliance with the provisions of this Regulation, with other Town Ordinances and with the laws of the State and Federal Government. Permits for construction or uses requiring a Site Plan Review approval shall be issued only upon order of the Town Planning Board. Permits for construction or uses requiring a special permit shall be issued only upon order of the Land Use Board of Appeals. Permits requiring approval from the Town Board shall be issued only after receipt of approval from the Town Board.
4. Receive applications for land use district changes and forward the requests to the Town Board, Town Planning Board, and other appropriate agencies.
5. Receive applications for Site Plan Review approval and forward these applications to the Town Planning Board.
6. Receive applications for special permits and variances and forward these applications to the Land Use Board of Appeals.
7. Following refusal of a permit, to receive applications for interpretation, appeals, and variances and forward these applications to the Land Use Board of Appeals for action thereon.
8. Conduct Town-wide inspections to determine general compliance or noncompliance with the terms of this Regulation.
9. Issue stop, cease and desist orders, and order, in writing, correction of all conditions found to be in violation of the provisions of all applicable Town Ordinances. Such written order shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Code Enforcement Officer to be violating the terms of this Regulation. It shall be unlawful for any person to violate any such order issued lawfully by the Code Enforcement Officer, and any person violating any such order shall be guilty of a violation of this Regulation.
10. With the approval of the Town Board, or when directed by them, institute in the name of the municipality any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation, so as to prevent the occupancy or use of any building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.
11. Revoke any order or permit issued under a mistake of fact, or contrary to the law, or the provisions of this Regulation.
12. Record and file all application with the Town Clerk for permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.
13. Maintain a map or maps showing the current land use regulation classification of all land in the Town. Copies to be filed with the Town Clerk.

14. Register nonconforming structures, uses and lots in accordance with Article IX.

B. Permits and Applications

1. Permits Required—Hereafter, no use permitted in this Regulation may be established or changed; no structure shall be erected, constructed, reconstructed, altered, razed, removed, and no building used or occupied, changed in use, or changed in non residential use occupancy, until a permit has been secured from the Code Enforcement Officer. Upon completion of changes in use or construction, reconstruction, alteration or moving structures, the applicant shall notify the Code Enforcement Officer of such completion. No permit shall be considered as complete or as permanently effective until the Code Enforcement Officer has noted on the permit that the work or occupancy or use have been inspected and approved as being in conformity with the provision of this Regulation.
2. Application Requirements for Permits—All application for 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 Code Enforcement Officer. The application shall include four (4) copies of the following information if deemed appropriate by the Code Enforcement Officer:
 - a. A statement as to the proposed use of the building or land.
 - b. A site layout plan drawn to scale (1 inch = KM) feet or larger) showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines. If the application relates to property scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development of the proposed layout of the entire property.
 - c. The location, dimensions, and arrangements of all open spaces, yards and buffer yards, including methods to be employed for screening.
 - d. The location, size, arrangement and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading and provision to be made for lighting such areas.
 - e. The dimensions, location and methods of illumination for signs, if applicable.
 - f. The location and dimensions of sidewalks and all other areas to devoted to pedestrian use.
 - g. Provisions for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage.
 - h. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land
 - i. A description of any proposed commercial operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, fire hazards, traffic congestion or other safety hazards.
 - j. Description of methods to be employed in controlling any excessive noise, air pollution, smoke fumes, water pollution, fire hazards or other safety hazards.
 - k. Any other data deemed necessary by the Code Enforcement Officer, Planning Board, or Town Board to enable them to determine the compliance of the proposed development with the terms of these Regulations.

5. **Health Department Permit**—No permit for any new or reconstruction which will involve the on-site disposal of sewage or waste, and no permit for a change in use or an alteration which will result in an increased volume of sewage or waste to be disposed of on the site, shall be issued until approval has been granted by the Herkimer County Department of Health

6. **Fees and Escrow Deposits**—All applicants for permits, site plan review approval, special permits, variances, and interpretations shall, at the time of making application, pay to the Town Clerk, for use by the Town, a fee in accordance with a fee schedule adopted by resolution of the Town Board upon the enactment of these Regulations or as such schedule may be amended by resolution of the Town Board. In addition, an escrow deposit may be required. The escrow deposit requirements shall be set from time to time by resolution of the Town Board

7. **Life of Permit**—Any erection, construction, reconstruction, alteration or moving of a building or other structure, including a sign authorized by a permit, shall be commenced, any change in use of a building or land authorized by a permit shall be undertaken, within one (1) year after the date of issuance of the permit. If not, the permit shall be considered null and void. However, in case of erection or construction of a building, the right to proceed with construction may be extended annually without additional fees for an aggregate period of not more than three (3) years, provided that the construction pursuant to said permit has commenced within the first one (1) year period.

8. **Certificate of Occupancy**
 - a. Hereafter, no structure erected, constructed, reconstructed, extended or moved, and no land or building changed in use under a permit, shall be occupied or used in whole or in part for any use whatsoever or changed in nonresidential occupancy, until the owner or authorized agent has been issued a certificate of occupancy by the Code Enforcement Officer, indicating that the building or use complies with the terms of the land use regulations as provided in these Regulations.
 - b. No certificate shall be issued until the premises in question have been inspected and found by the Code Enforcement Officer to be in compliance with the Land Use Regulations.
 - c. The issuance of a certificate of occupancy in no way absolves the owner or authorized agent from compliance with the intent of these Regulations.

Article XI. Amendments Section

1101. General Provisions for Amendments

A. Power of Amendment

The Town Board may from time to time amend, supplement, change, modify, or repeal these Regulations, including the Official Land Use District Map. When doing so, the Town Board shall proceed in the manner prescribed in this Article.

B. Statement of Intent

For the purpose of establishing and maintaining sound, stable, and desirable development within the Town of Stark, this Regulation shall not be amended except (a) to correct a manifest error in the Regulation or (b) because of changed or changing conditions in a particular area or in the Town generally. The re-designation of an area, the extension of a boundary of an existing area, the change in the regulations and restrictions, shall be made only as necessary for the promotion of the public health, safety, and general welfare, and to achieve the purposes of and to conform with the Comprehensive Plan.

C. Initiation of Amendments

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Board on its own motion, by the Town Planning Board, or by petition of one or more persons to be affected by the proposed amendment, subject to the following provisions:

1. Proposals Originated by the Town Board—The Town Board shall refer every proposed amendment, supplement change, modification, or repeal originated by the Board to the Town Planning Board. Within thirty (30) days of the submission of said proposal, the Planning Board shall submit to the Town Board a report containing the Board's recommendation, including any additions or modifications to the original proposal. A failure by the Planning Board to submit such report shall be considered an approval of amendment.
2. Proposals Originated by the Town Planning Board—The Planning Board may at any time transmit to the Town Board any proposal for the amendment, supplement, change, modification, or repeal of the Regulation.
3. Proposal Originated by a Citizen's Petition—Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change or modification shall be signed and acknowledged, and submitted in writing to the Code Enforcement Officer. On receipt of said petition, the Code Enforcement Officer shall transmit a copy of the petition to the Town Planning Board. Within thirty (30) days after its submission to the Planning Board, the Board shall submit to the Town Board a report containing the Board's recommendation, including any additions to or modifications of the original proposal. No application for an amendment may be made within six months after the denial, except upon a showing of a material change in conditions which, in the opinion of the Town Board may warrant the granting of the change in the Regulations

D. Contents of Land Use Regulations Change Application Originated by a Citizen

Every application for amendment to the Regulation, without limiting the right to file additional material shall contain at least the following:

1. The application shall be typewritten or printed clearly and sworn to be the applicant or his authorized agent and shall include the post office address of the applicant.
2. It shall state the reason why such regulations, restrictions, or boundaries should be amended, supplemented, changed or repealed.
3. It shall set out, if applicable, any alleged error in the Regulation which would be corrected by the proposed amendment with a detailed explanation of such error in the Regulation and detailed reasons how the proposed amendment will correct such error.
4. It shall set out the changed or changing conditions, if any, in a particular area of the Town, which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
5. It shall set out the manner in which the proposed amendment will carry out the intent and purposes of, and provide conformance with the Comprehensive Plan.
6. It shall set out all other circumstances, factors and reasons that the applicant offers in support of the proposed amendment.
7. It shall indicate the status of any proceedings required under New York State Environmental Quality Review Act.
8. It shall indicate the status of any proceedings required under New York State Environmental Quality Review Act.
9. A description of the proposed map change or a summary of the specific objective any proposed change in the text of this Regulation.

E. Town Board Actions on Amendments

1. Upon its own initiation of an amendment or upon receipt of a proposed Amendment as provided in Sections 1101 (C)(2) and (3), the Town Board may establish a date for a public hearing on the amendment and order the attorney to draft an appropriate amendment. Upon receipt of a petition for an amendment as provided in Section 1101 (C)(2) and (3), the Town Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney to draft an appropriate response. The dates set for the hearings shall allow for the thirty (30) day review period for the Planning Board to consider the amendment
2. No amendment of the provisions of this Regulation may be adopted until a public hearing has been held on such amendment. Notice and place of such hearing shall be published in the designated paper of general circulation in the Town of Stark and posted as required by the Town Law of the State of New York
3. At the conclusion of the public hearing on a proposed amendment, the Town Board may proceed to vote on the proposed amendment, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

E. Planning Board Consideration of Proposed Amendments

1. The Planning Board shall conduct a public meeting and shall endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Town Board at the public hearing on the amendment. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the Town Board to delay.

final action on the amendment until such time as the Planning Board can present its recommendations.

2. The Town Board need not await the recommendations of the Planning Board before taking action on a proposed amendment, nor is the Town Board bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.

G. Ultimate Issue before Town Board on Amendments

In deciding whether to adopt a proposed amendment to these Regulations, the central issue before the Town Board is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Town Board and excluded. In particular, when considering proposed map amendments:

1. The Town Board shall not consider any representations made by the petitioner that if the change is granted the property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Town Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
2. The Town Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Article XII. Violations and Penalties

Section 1201. Violation

Whenever, by the provisions of this Regulation, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land, or on the erection of a structure, a failure to comply with such provisions shall constitute a violation of this Regulation.

Section 1202. Liability

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Regulation may be held responsible for the violation and be subject to the penalties and remedies provided herein.

Section 1203. Complaints Regarding Violations

Whenever the Code Enforcement Officer receives a written, signed complaint alleging a violation of this Regulation, the Code Enforcement Officer shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

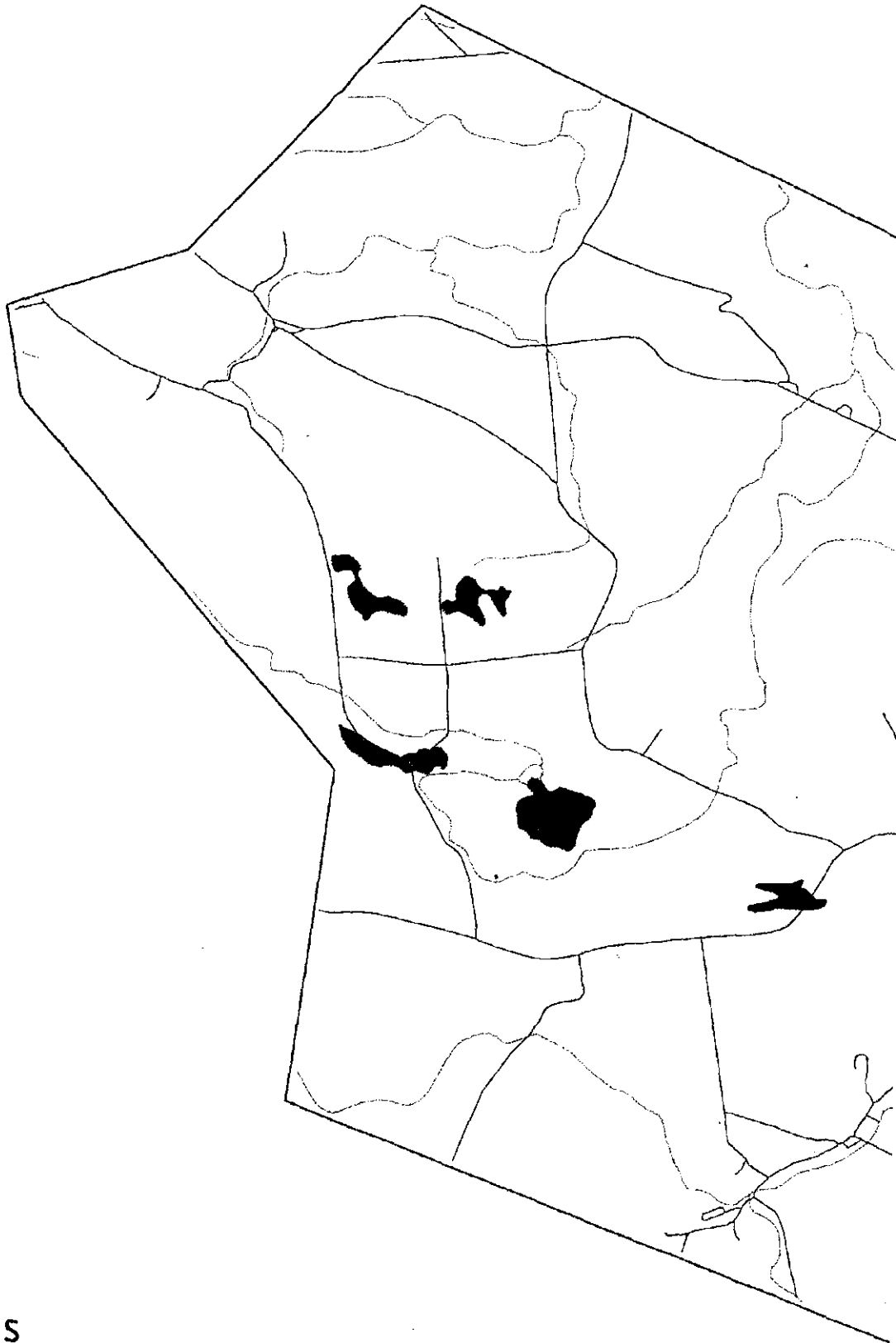
Section 1204. Procedures Upon Discovery of Violations

- A. Upon the determination that any provision of this Regulation is being violated, the Code Enforcement Officer shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Code Enforcement Officer's discretion.
- B. The final written notice (and the initial written notice may be the final notice) shall state what action the Code Enforcement Officer intends to take if the violation is not corrected and shall advise that the Code Enforcement Officer's decision or order may be appealed to the Land Use Board of Appeals in accordance with Section 1003.
- C. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Regulation or pose a danger to the public health, safety, or welfare, the Code Enforcement Officer may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 1205.

Section 1205. Penalties and Remedies for Violations

- A. Violation of the provisions of the Regulation or failure to comply with any of its requirements, including violations of any condition and safeguards established in connection with grants of variance or special permits, or site plan review approvals, shall constitute a violation pursuant to the terms of New York Statutes as amended, punishable by a fine of up to Two Hundred Fifty Dollars (\$250.00) or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.
- B. The Code Enforcement Officer is authorized to issue cease and desist orders in the form of written official notices sent by registered mail to the person(s) responsible for the violation.

C. In addition to other remedies stated above, the Code Enforcement Officer may, with the approval of the proper local authorities of the Town, institute any appropriate action of proceedings to restrain, correct, or abate any violation.



- Roads
- - - Streams
- State Regulated Wetlands






Wet Lands

Town of Stark, Herkimer County, New York



revised: 10-20-03

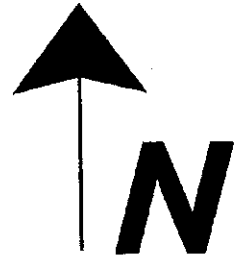
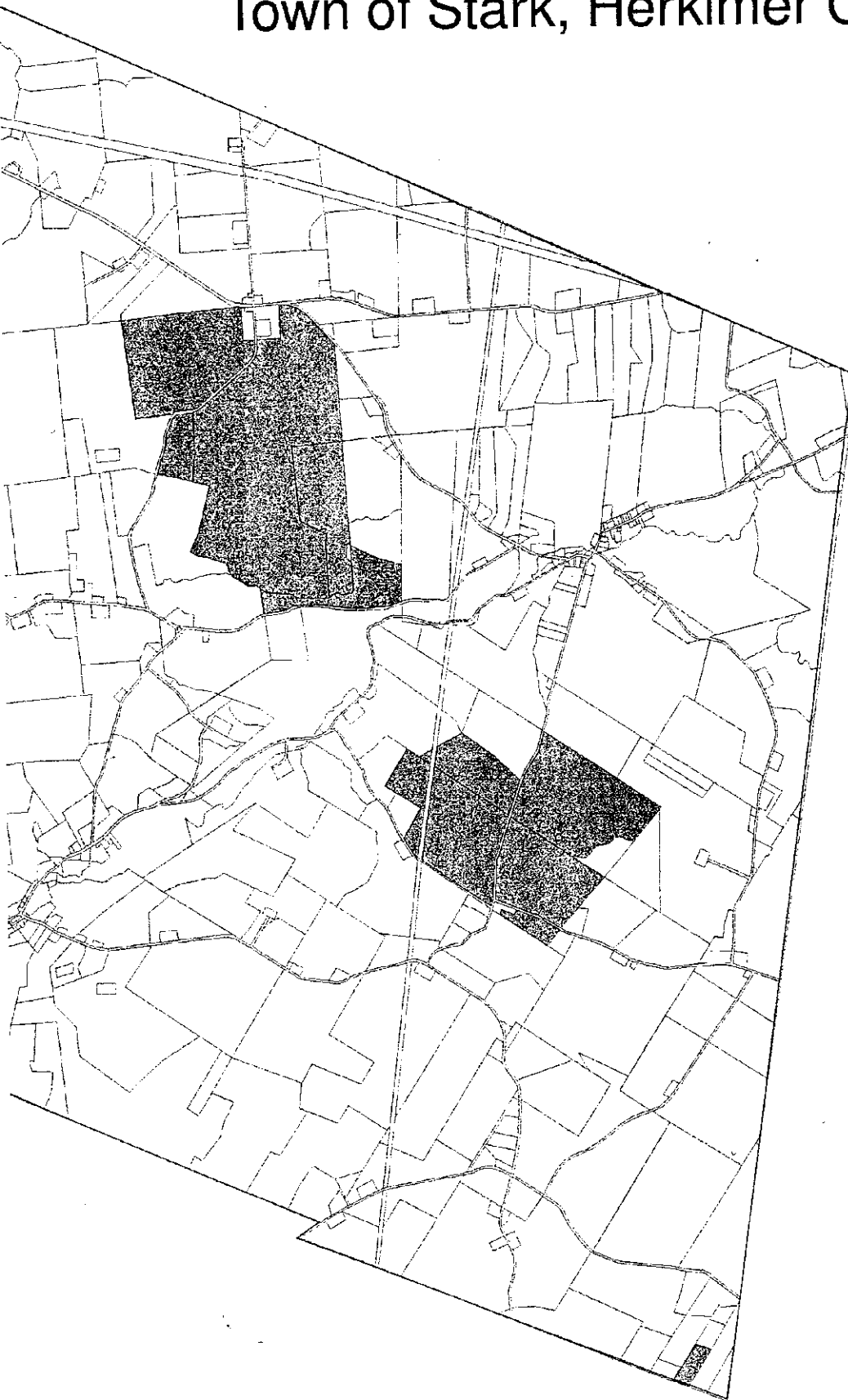


-  Hamlets
-  State Land
-  Residential / Agricultural



Land Use

Town of Stark, Herkimer County, New York



revised: 11-14-0