

ARTICLE I General Provisions (§ 139-1 - § 139-3)

§ 139-1 Purpose.

For the purpose of promoting health, safety and the general welfare of the Town of Lysander and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other requirements under and pursuant to Article 16 of Chapter 62 of the Consolidated Laws, the heights, number of stories and size of buildings and other structures, the percentage of the lot that may be occupied, the size of yards and other open spaces, the density of population and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

§ 139-2 Title.

This chapter shall be known as the "Zoning Law of the Town of Lysander, New York."

§ 139-3 Interpretation; most restrictive standards to govern.

In their interpretations and applications, the provisions of this chapter shall be held to be the minimum requirements adopted for promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at a variance with the requirements of any other lawfully adopted rules, regulations, ordinances or deed restrictions, the most restrictive or that imposing the highest standards shall govern. **If any term, definition, phrase or procedure is ambiguous in its application, it is the duty and responsibility of the Code Enforcement Officer to interpret this chapter, which interpretation can be appealed to the Zoning Board of Appeals. If a use for a zoning district is not specifically authorized, it is therefore prohibited.**

ARTICLE II Terminology (§ 139-4 - § 139-4)

§ 139-4 Definitions and word usage.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designated to be used or occupied."

B. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT

~~The voluntary, absolute relinquishment. The giving up of a known right to which one is entitled with the intention of permanently terminating or parting with such right.~~

~~"Abandonment" depends upon the concurrence of two elements or factors:~~

~~—— (1) The intention to relinquish, to permanently give up a known right to continue the nonconforming use; and~~

~~—— (2) The cessation of such nonconforming use, and overt act or failure to act, implying that the owner intends to permanently cease from putting the premises to the nonconforming use or such other nonconforming use as may be permitted by this chapter.~~

ACCESSORY STRUCTURE

A structure, the use of which is customarily incidental to that of the main building or structure and which is located on the same lot as that occupied by the main building or structure.

ACCESSORY USE

(1) A use, not otherwise contrary to law, customarily incidental to the use of a building (**THIS MEANS NON-COMMERCIAL USES**) for dwelling purposes and including:

(a) The office or studio of a physician or surgeon, dentist, artist, musician, lawyer, architect, teacher, real estate agent or other ~~like New York State Licensed~~ professional persons (~~DO WE WANT TO LIMIT THIS TO PROFESSIONALS LICENSED BY THE STATE OF NEW YORK?~~) residing on the premises, including a child day-care facility as described in New York State Social Services Law § 390(12)(b). There shall be no more than one paid employee or assistant, **exclusive of a person residing on the premises.**

(b) Home workshops, **not for commercial purposes**, which do not constitute a nuisance by reason of smoke, odor, vibration, dust or noise. There shall be no paid employees or assistants.

(c) Customary home occupations, such as dressmaking and hairdressing conducted by a person residing on the premises, with no paid employees or assistants. The foregoing does not ~~include~~ **allow** used vehicle sales or ~~public~~ **garages for rent.**

[Amended 1-20-2000 by L.L. No. 1-2000]

(d) The temporary storage (**less than 6 months**) of registered and operable unoccupied camping trailers and recreational vehicles **not owned by a person residing on the premises.**

[Amended 1-20-2000 by L.L. No. 1-2000]

(e) The casual sale of motor vehicles (as defined below) for not more than 45 calendar days per vehicle, which forty-five-day period may be extended in writing for not more than 30 additional days by the Codes Enforcement Officer upon a written request.

[Added 1-20-2000 by L.L. No. 1-2000]

(2) An "accessory use" may be conducted in the main building or in an accessory building, but in either case shall not occupy a floor area greater than that of 1/2 of the area of the first floor of the main building. There shall be no commercial display visible from the street or advertising, except a small professional nameplate or announcement sign.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the exit of a building or structure facilities or an enlargement, whether by extending on a side, front or back of a building or structure -or by increasing in height, or the moving from one location or position to another.

APARTMENT

A dwelling unit in a multiple-family dwelling. ~~or a mixed-occupancy building (???)~~.

APARTMENT BUILDING

A building arranged, constructed or designed to be occupied by three ~~(STILL A GOOD NUMBER?)~~ or more families living independently of each other by way of wall or partitions separating dwelling units (as defined below), with ownership vested in other than the occupants thereof.

AREA, MINIMUM FIRST-FLOOR

For living purposes, the horizontal area of a building measured at the ground level along the exterior of the foundation walls, excluding accessory buildings, open porches, terraces, steps and garages, whether attached or unattached.

BED AND BREAKFAST

See "tourist home."

BUILDING

Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

BUILDING LINE, FRONT

~~The A baseline of a vertical plane~~, parallel to the street line and extending from one side lot line to another, beyond which no portion of a building or structure shall extend into the front yard. Side and rear building lines shall be determined in a comparative manner. The front building line shall be located the same distance from the street line as the applicable minimum front yard setback in the applicable zoning district (see limited exception in § 139-59.1).~~f.~~ [Amended 9-9-2004 by L.L. No. 4-2004]

BUSINESS

Any commercial venture designed to generate income.

CASUAL SALE OF MOTOR VEHICLES

The display for sale or sale of not more than one operable motor vehicle at any one time and not more than two operable motor vehicles in any one calendar year by the titled vehicle owner on or from property utilized for dwelling purposes and owned or occupied by the titled vehicle owner, which display and sale is not in connection with the conduct of any business. -[Added 1-20-2000 by L.L. No. 1-2000]

CHURCH

Any structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

CLASS-ONE LIQUIDS

Gasoline, oil and other petroleum products with a flash point below 100° F.

CORNER LOT

A parcel of land at the junction of and fronting on two or more intersecting streets.

COUNTRY STORE

The purpose of a country store is to provide opportunities for agricultural enterprises located in the Town to retail their products directly to consumers. Agricultural products grown or otherwise produced by the owner must constitute a substantial portion (50% or more)~~(more than 50%???)~~ of all items sold at a country store. The sale of other related items of an agricultural or country nature is permitted to attract customers and promote the sale of the owner's agricultural products. Such related items include produce, plants, lawn and garden supplies, pet food, baked goods, ice cream, clothing items promoting the store and the like. Prohibited sales include vehicles, petroleum products, hardware, tobacco products, beer and liquor, nonpromotional clothing, furniture, sporting goods, farm or garden machinery, and other items not related to and designed to promote the agricultural nature of the establishment. With the exception of serving food composed

primarily of ingredients produced on the owner's farm, such facility shall not include an indoor restaurant.[Added 3-7-2002 by L.L. No. 2-2002]

DRIVE-IN SERVICE

Includes restaurants, banks and the like where patrons enter the premises and are served or entertained in automobiles.

DWELLING

A house, apartment building or other permanent building designed or used primarily for human habitation. A dwelling shall not be deemed to include a hotel, motel or tourist home.

DWELLING, MULTIPLE-FAMILY

A residence designed for or containing three or more dwelling units and occupied by three or more families, with separate living, sleeping, cooking and sanitary facilities for each unit, [which units are separated by a common wall](#). Apartment houses are considered to be multiple-family dwellings.

DWELLING, SINGLE-FAMILY

A detached residence designed for or containing only one dwelling unit and occupied by only one- family.

DWELLING, TWO-FAMILY

A residence designed for or containing only two dwelling units and occupied by only two families, with separate living, sleeping, cooking and sanitary facilities for each [unit, which units are separated by a common wall](#).

DWELLING UNIT

A dwelling or portion thereof providing a complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

FAMILY

One or more persons (~~related through marriage or birth????~~) occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FARM

A parcel of land five or more acres in size used principally in the raising or production of agricultural products and the necessary farm structures and storage of equipment used on the premises. Editor's Note: The former definition of "farm and garden retail stand," which immediately followed this definition, was repealed 3-7-2002 by L.L. No. 2-2002.

FARM STAND

A permanent structure to provide opportunities for farming enterprises located in the Town to retail produce directly to consumers. Only agricultural produce, a substantial portion (50% or more)(~~50% or more???~~) of which is produced in the Town by the landowner, may be sold.[Added 3-7-2002 by L.L. No. 2-2002]

FARM WORKER HOUSING

On-farm structures occupied by farm laborers who are employed primarily on the farm where the structures are located and any nonworking family members of such laborers. Farm worker housing shall not include housing for any owners, lessees or operators of the farm or any officers, partners or members thereof.[Added 3-7-2002 by L.L. No. 2-2002]

Flag Lots

Lots which are narrower than the minimum lot width requirement. Flag lots shall may be permitted as defined in the subdivision regulations Chapter 133-____.

FLOOR AREA

The gross horizontal area of the main or first floor of a building, not including the area of unenclosed or open porches or attached garages. All dimensions shall be measured along the outside faces of the exterior walls.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car that is leased to a nonresident of the premises. Nothing contained herein shall ~~in no way does this~~ include the repair of vehicles other than those of the occupant.

GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for commercial gain and which is used for storage, repair, rental, greasing, oil changing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

HOSPITAL

Unless otherwise specified, includes sanitarium, sanatorium, preventorium, clinic and any other place for diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of humans ~~ailments~~.

HOTEL

A building or group of buildings in which there are rental sleeping rooms for temporary lodging and which may also include dining rooms, kitchens, serving rooms, meeting rooms, ballrooms and other facilities and services intended primarily for the accommodation of its patrons.

JUNKYARD

~~A lot, or part thereof, whether inside or outside a building, used primarily for the collecting, storing and sale of wastepaper, rags, scrap metal or discarded material; and/or for the collecting, dismantling, storage and salvaging of machinery or two or more unregistered vehicles, whether in running condition or not, or parts thereof. The term shall include any place of storage or deposit for any purpose of used parts or waste materials from motor vehicles which, taken together, equal, in bulk, two or more such vehicles.~~

A lot, or part thereof, with or without buildings, used for or occupied by the storage, collection or abandonment of junk, including scrap metals or other scrap materials, used or salvaged building materials, or used for the collecting, dismantling or abandonment of automobiles or other vehicles, machinery or parts thereof. The deposit on a lot of two (2) or more unregistered motor vehicles, whether in operating condition or not, or parts thereof shall be deemed to make a lot a "JUNKYARD."

KENNEL

The keeping of more than three dogs at any one time that are more than six months old, including, but not limited to, the breeding, sale or temporary care of dogs for commercial gain.;

LOT

A parcel of land occupied or used by one principal structure or use with its accessory structures and the required open spaces.

LOT AREA

Total area within lot ~~property~~ lines, excluding the street or highway right-of-way.

LOT COVERAGE

That percentage of a lot covered by a building, ~~or~~ structure or impervious surface. ~~(HOW ABOUT DRIVEWAYS OR OTHER IMPERVIOUS ROOFS OR MATERIALS???)~~.

LOT LINES

Any [legally approved](#) line, as ~~portrayed~~ shown on a survey or subdivision map, dividing one lot from another.

LOT WIDTH

The width of a lot measured at the front building line. ~~(THIS COULD RESULT IN PIE SHAPED PARCELS).~~

MARINA, COMMERCIAL

Use of property or structures to provide fuel, repair, storage and other like services for boats.

MARINA, RESIDENTIAL

Use of property or structures to provide dockage for boats other than boats owned by property owners or guests.

MOTEL

See "hotel."

MOTOR VEHICLE

As defined in § 125 of the Vehicle and Traffic Law of the State of New York.[Added 1-20-2000 by L.L. No. 1-2000]

MOTOR VEHICLE SERVICE STATION

Any area of land, including structures and buildings thereon, that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for polishing, washing, [servicing](#), [repairing](#) or otherwise cleaning such vehicles.

NATURAL PRODUCTION USE

The excavation and sale of sand, gravel, clay or other natural mineral deposit, the quarrying of any kind of rock formation or the drilling of a well for oil or gas production [for commercial gain](#).

NONCONFORMING STRUCTURE

A building existing at the time of the enactment of ~~this chapter~~ [the Zoning Code of the Town of Lysander](#) which does not conform to the regulations, except use regulations, of the district in which it is situated.

NONCONFORMING USE

A use of land or building existing at the time of the enactment of ~~this chapter~~ [the Zoning Code of the Town of Lysander](#) which does not conform to the regulations as to use of the district in which it is situated.

NORMAL POOL ELEVATION

The water level set by the Canal Corporation or other entity performing that function.

NURSING HOME

A structure, other than a hospital, where persons are lodged and furnished with meals and nursing care for hire.

PARKING SPACE

An area for the temporary parking of a motor vehicle, capable of containing a rectangle nine feet ~~six inches~~-wide by ~~19-18~~ feet long (~~STILL GOOD??~~) and clear to a height of seven feet, together with access aisles for maneuvering and passage to and from the public street. In all instances, the minimum width of the [access or drive](#) aisle shall be 24 feet.

PERSON

Includes corporations, companies, associations, societies, firms and partnerships as well as individuals.

PUBLIC OR PRIVATE SCHOOLS

Buildings used for general instruction of primary and secondary education (preschool through 12th grade).

REGULATION GOLF COURSE

A public or private golf course consisting of nine or more holes with grass tees, fairways and greens.

RESTAURANT

A building or portion thereof where prepared food and beverages, whether or not alcoholic, are sold to the public for consumption. ~~on (or off???) the premises.~~

RETAIL OR PERSONAL SERVICE USE

A commercial activity characterized by the direct on-premises sale of goods and services within the building to the ultimate consumer, generally involving stock in trade such as are normally associated with department stores, food markets, shops and similar establishments. This term shall also include personal service shops such as barbershops, beauty salons and dry-cleaning or laundry services of less than 4,000 square feet gross floor area.

SEASONAL PRODUCE STAND

A temporary -structure for the seasonal selling of produce grown solely by the landowner. The cultivation and sale of such produce shall occur on the same parcel of land. Any structure, or portion thereof, used for such purpose shall not exceed 100 square feet in size, and any permanent structures shall comply with applicable setback requirements for residential accessory structures. Temporary structures shall be removed during the off-season. [Added 3-7-2002 by L.L. No. 2-2002]

SETBACK

Except where otherwise specifically set forth in this chapter, all yard setbacks shall be measured from property lot lines and not from road center lines. Where deeded property lines run to road center lines, the property line shall be deemed to be the near edge of the ~~road or highway~~ right-of-way for the purpose of determining setbacks.

SIGN

(1) An emblematic design or device, including those which are composed of light rays only, and including any billboard, pennant, announcement or symbol designed to inform or attract the attention of persons not on the premises on which the "sign" is located.

(2) The following shall not be included in the application of the sign regulations:

(a) Flags and insignia of any government, except when displayed in connection with commercial promotions.

(b) Legal notices, identification or informational or directional signs erected or required by governmental bodies.

(c) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(d) Signs directing and guiding traffic and parking on private property but bearing no advertising matter and conforming to the regulations set forth in the New York State Department of Transportation Manual of Uniform Traffic Control Devices.

(3) For the purpose of determining the number of signs, a "sign" shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single "sign". The surface area of a "sign" shall be computed as including the entire area within a geometric form or combinations of regular geometric forms comprising all of the display area of the "sign" and including all of the elements of the matter displayed. On two-sided freestanding signs and two-sided signs attached to and projecting perpendicularly from a building, with display surfaces on both sides, only one side will be considered in the computation of the area. Structural members other than decorative frames, for the purpose of supporting signs and not bearing advertising matter, shall not be included in computation of surface area.

STABLES

| Structures and grounds for the boarding of horses [or other animals](#) not owned by the landowner or occupant.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between any floor and the ceiling next above it.

STREET

| A public [\(or private??\)](#) way which affords principal means of access to abutting properties.

STREET LINE

The dividing line between the street or highway right-of-way and the abutting real properties.

STRUCTURE

A combination of materials to form a construction that is safe and stable and includes, [but is not limited to, among other things](#), buildings, stadiums, platforms, ~~radio~~ [communication](#) towers, sheds, storage bins, billboards and display signs.

STRUCTURE, HEIGHT OF

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

STRUCTURE, PRINCIPAL

A structure, the use or occupancy of which constitutes the main or principal use of the lot on which said structure is located.

SWIMMING POOL

Any artificially constructed pool, tank or receptacle for water, installed in or above ground for the purpose of swimming or bathing, and having a depth at any point greater than 12 inches when filled with water.

TOPSOIL

The surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation.

TOURIST HOME

A dwelling in which not more than four ([look into NYS Building Code for maximum number of rooms in a B&B](#)) sleeping rooms are provided or offered for overnight temporary accommodations for transient guests for compensation, with or without meals. A bed-and-breakfast which meets the above definition shall be deemed a "tourist home."

USE

The specific purpose for which land, a structure or a building is used or occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

YARD

An unoccupied space open to the sky on the same lot with a building or structure.

YARD, FRONT

That portion of a lot situated between the street line and the front line of a building or structure.

YARD, REAR

That portion of a lot situated between the rear lot line and the rear line of a building or structure.

YARD, SIDE

That portion of a lot situated between the side lot line and the nearest side line of a building or structure and extending from the ~~rear line of the~~ front yard ~~setback line~~ to the ~~front line of the~~ rear yard ~~set back line~~.

ARTICLE III Districts (§ 139-5 - § 139-9)

§ 139-5 Establishment of districts.

A. For the purposes set forth in Article I, the Town of Lysander, outside the Village of Baldwinsville, is hereby divided into the following 12 districts ~~(DO WE NEED ALL OF THESE DISTRICTS OR CAN SOME BE COMBINED???)~~:

- Agricultural-Residential AR-40 District (AR-40)
- Residential R-20 District (R-20)
- Residential R-12.5 District (R-12.5)
- Residential R-10 District (R-10)
- Agricultural District (A)
- Neighborhood ~~Service~~~~Service~~~~Residential Business~~ District (NS)
- Retail Service District (RS)
- General Business District (GB)
- General Commercial District (GC)
- Industrial District (I)
- NYS Flowage Easement District (NYSFE)
- Planned Unit Development District (PUD)

B. In addition, Riverfront Development Overlay Controls ~~(cite section)~~ shall apply in designated waterfront areas, ~~and~~ Major Highway Overlay Controls ~~(cite section)~~ shall apply in designated areas fronting on arterial and collector roads ~~and Incentive Zoning Overlay shall apply where shown on the Incentive Zoning Overlay Map.~~

§ 139-6 Zoning Map.

A. The boundaries of the districts are established as shown on the ~~most recent zoning map adopted by the Town of Lysander Board, dated _____ and~~ entitled the

"Official Zoning Map of the Town of Lysander" and called the "Zoning Map" in this chapter.

B. The Town Clerk shall certify the Zoning Map as a part of this chapter and keep it on file in the Town Clerk's Office.

C. Changes and amendments.

(1) Any changes in district boundaries or other matter shown on the Zoning Map shall be promptly made on the map, with a signed statement substantially as follows:

On _____, by action of the Town Board of Lysander, the following (change) changes (was) were made in this Zoning Map: (brief description of the nature of the change).

(2) This statement shall be signed by the Supervisor and attested by the Town Clerk. The ordinance making such changes and amendments shall provide for their immediate entry upon the Zoning Map.

§ 139-7 Interpretation of district boundaries.

The Zoning Map is a parcel based map and, with few exceptions, the boundaries of districts follow lot lines. In those few instances where district boundaries do not follow lot lines and uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

A. Distances shown on the Zoning Map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines, in all cases where distances are given, are parallel to the street line.

B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as following shorelines of streams, lakes and reservoirs shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.

D. Boundaries indicated as parallel to or extensions of features indicated in Subsections A, B and C shall be construed to be parallel to or extensions of such features.

E. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

F. In instances where there is ambiguity even after the rules set forth above have been applied, the Code Enforcement Officer shall be charged and has authority to interpret and make final decisions regarding district boundary lines

§ 139-8 Lots in two districts.

Should a district boundary line divide a lot, the uses and regulations of the less restricted portion of the lot may be extended into the more restricted portion **only** upon special permit and approval of the Board of Appeals, provided that the less restricted portion of the lot has frontage on a public street.

§ 139-9 Existing lots.

Other provisions of this chapter notwithstanding, nothing shall prohibit the use of a lot of less than the required area and width for a single-family dwelling in any district, except a lot in an Industrial or a NYS Flowage Easement District, provided that all the other provisions of this chapter are complied with when such lot, at the time of ~~chapter~~**the** enactment of the **Zoning Code of the Town of Lysander** was owned or under contract of sale by persons other than those owning or leasing any adjoining lot ~~(DON'T UNDERSTAND LAST PHRASE)~~.

ARTICLE IV Application of District Regulations (§ 139-10 - § 139-12)

§ 139-10 Conformance required.

A. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations for the district in which it is located.

B. No part of a yard, other open space or off-street parking or loading space required about or in connection with any structure for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for another structure.

C. No yard, lot or off-street parking space existing at the time of enactment of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

§ 139-11 Regulations to be minimum and uniform.

Within each district, the regulations established by this chapter shall be minimum regulations and shall be applied uniformly to each class or kind of structure or land.

§ 139-12 Limited exception for residential subdivisions.

A. If the preliminary plan of a residential subdivision containing one or more new streets has been duly approved by the Planning Board of the Town of Lysander within six years prior to the adoption of this chapter, the lots of the subdivision may be developed with

the lots and yards delineated on the plot or, if not so delineated, within the minimum yard requirements for the district in which the property was situated under the zoning ordinance in effect at the time of such approval, and any subsequent provision of this chapter requiring larger lots or yards shall not apply to the subdivision for a period of six years from the date of such approval; provided, however, that the final plan of such subdivision is duly filed in the Onondaga County Clerk's office not more than three years after such ~~final~~ approval.

B. The provisions of Subsection A shall also apply relative to any amendment of this chapter.

ARTICLE V Agricultural-Residential AR-40 District (§ 139-13 - § 139-14)

~~Editor's Note: Denise Local Law Number 5-2008, adopted 4-28-2008, added a new section to this article to establish a temporary moratorium on zone changes for property in the AR-40 District. Due to the temporary nature of this moratorium, it was not included in the Code.~~

§ 139-13 Structures and uses.

The AR-40 District is intended for undeveloped portions of the ~~town~~ Town in proximity to areas already developed with suburban uses and likely to be developed themselves for similar suburban-type development. It is intended to accommodate the continued use of existing farms and to allow for minimal residential development **except where public services can be provided pursuant to Incentive Zoning**. Residential properties within this district will rely upon individual on-site systems for provision of essential services, especially septic disposal. Therefore, the residential lots are larger than other residential districts to minimize burdens upon the environment. ~~and to discourage the premature extension of public water or sewer services.~~

A. The following uses are permitted by right (with building permit, where required):

(1) Single-family dwelling on a permanent foundation and its accessory uses and structures.

(2) Farm, with the following restrictions:

(a) No retail or commercial activity shall take place other than the storage, processing and sale of farm products predominantly produced on the premises by the farmer.

(b) The storage of manure shall not take place within ~~100-300~~ feet **(ENOUGH DISTANCE?)** of the nearest lot line.

(c) No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest lot line than 100 feet

~~(ENOUGH DISTANCE?)~~-No garbage or refuse shall be used for feed other than that actually produced on the premises.

(d) Farms are exempt from § 139-14B.

(3) Seasonal produce stand.

[Added 3-7-2002 by L.L. No. 2-2002]

B. The following uses are permitted upon controlled site review (see Article XVII):

(1) Utility substations.

(2) Church.

(3) Public school.

(4) Farm stand.

[Added 3-7-2002 by L.L. No. 2-2002]

C. Uses permitted upon issuance of a special permit (see Article XVIII), ~~followed and by~~ ~~a~~-controlled site review (see Article XVII), are as follows:

[Amended 3-7-2002 by L.L. No. 2-2002; 6-23-2005 by L.L. No. 3-2005]

(1) Child day-care facility [excluding such facilities described in Social Services Law § 390(12)(b)].

(2) Private school (nursery through college).

(3) Nursing home.

(4) Parks, playgrounds and other similar recreational facilities which are privately operated but not-for-profit.

(5) Regulation ~~g~~golf ~~ce~~ourses.

(6) Country store.

(7) Tourist home.

(8) Veterinary treatment facility (no animals shall be housed ~~kept~~ outside).

D. The following ~~supplementary~~ regulations (~~Article XX — REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS~~) shall apply:

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ??~~

(4) Accessory uses and structures. ??

(5) Highway regulations. ??

(6) River regulations. ??

§ 139-14 Dimensional requirements.

A. Residential structures and uses.

(1) Lots shall meet the following requirements:

(a) Lot Area, minimum: 40,000 square feet.

(b) Lot Width, minimum: 150 feet ~~(FROM WHERE?? STREET??).~~

(c) Lot Coverage, maximum: 20%.

(2) Principal structure and accessory structures shall meet the following requirements:

(a) ~~Setback - fFront yard-setback:~~ 50 feet.

(b) ~~Setback - Sside yard-setback:~~

[1] One side: 15 feet.

[2] Total of both sides: 40 feet.

(c) ~~Rear yard-sSetback for principal structures – rear yard:~~ 50 feet.

(d) ~~Setback - Rrear yard setback~~ for accessory structures: 15 feet.

(e) Maximum height: 30 feet.

B. Nonresidential structures and uses ~~[MAKE SENSE??].~~

(1) Lots shall meet the following requirements:

(a) Lot Aarea, minimum: 80,000 square feet.

(b) Lot ~~W~~width, minimum: 300 feet.

(c) Lot ~~C~~coverage, maximum: 25%.

(2) Principal structures and accessory structure shall meet the following requirements:

(a) ~~Setback - F~~front yard ~~setback~~: 100 feet.

(b) ~~Setback - S~~side yard ~~setback~~:

[1] One side: 30 feet.

[2] Total of both sides: 50 feet.

(c) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(d) ~~Rear-Setback - rear~~ yard ~~setback~~ for accessory structures: 30 feet.

(e) Maximum height: 50 feet.

ARTICLE VI Residential R-20 District (§ 139-15 - § 139-16)

§ 139-15 Structures and uses.

This district is designed to encourage residential development in conjunction with the provision of public water and sewer services, **which are required in the R-20 District**. It is to be applied to areas already served with public facilities or to sites with project plans which address the provision of essential water and sewer facilities. Provision for open space protection and/or recreation may be provided on an individual site or neighborhood basis. It is intended to promote the formation of neighborhoods in a low to moderate density suburban tract setting, to avoid and minimize impacts upon significant environmental features and to promote the sound use of public facilities and infrastructure. It is furthermore intended to accommodate the continued use of limited groups of existing lots which were developed under prior zoning codes or were previously classified in the R-20 District and which lack either public water or sewer services. **It is the policy of the Town to encourage cluster development (under Article 278 of the Town Law), to the extent practicable, for subdivision of [10] or more lots. The Town Board hereby authorizes the Planning Board to consider the use of cluster development at its sole discretion.**

A. Uses permitted by right (with building permit, where required) are as follows:

(1) Single-family dwelling on a permanent foundation and accessory uses and structures.

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

- (1) Utility substations.
- (2) Church.
- (3) Public school.

C. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and, followed by~~ a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

- (1) Child day-care facility [excluding such facilities described in Social Services Law § 390(12)(b)].
- (2) Private school (nursery through college).
- (3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.
- (4) Regulation golf courses.

D. The following ~~supplementary~~ regulations shall apply (~~Article XX—REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS~~):

- (1) Height, yard and corner lot exceptions.
- (2) Off-street parking and loading.
- (3) Signs.

~~(4) Screening and landscaping. ???~~

~~(45) Accessory uses and structures. ???~~

(5) River Front

(6) Highway

§ 139-16 Dimensional requirements.

A. Residential structures and uses.

(1) Lots shall meet the following requirements:

- (a) Lot Aarea, minimum: 20,000 square feet.

(b) Lot ~~W~~width, minimum: ~~100-80~~ feet.

(c) Lot ~~C~~coverage, maximum: 25%.

(2) Principal structure and accessory structures shall meet the following requirements:

(a) ~~Setback - F~~front yard ~~setback~~: ~~50-30~~ feet.

(b) ~~Setback - S~~side yard ~~setback~~: 10 feet.

———— [1] ~~One side: 10 feet.~~

———— [2] ~~Total of both sides: 30 feet. ???~~

(c) ~~Rear-Setback - R~~rear yard ~~setback~~ for principal structures: ~~50-40~~ feet.

(d) ~~Setback~~ Rear yard ~~setback~~ for accessory structures: 10 feet.

(e) Maximum height: 30 feet.

B. Nonresidential structures and uses. ~~(MAKE SENSE?)~~.

(1) Lots shall meet the following requirements:

(a) Lot ~~A~~area, minimum: 80,000 square feet.

(b) Lot ~~W~~width, minimum: 200 feet.

(c) Lot ~~C~~coverage, maximum: 25%.

(2) Principal structure and accessory structure shall meet the following requirements:

(a) ~~Setback - F~~front yard ~~setback~~: 100 feet.

(b) ~~Setback - S~~side yard ~~setback~~:

[1] One side: 30 feet.

[2] Total of both sides: 50 feet. ?????

(c) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(d) ~~Setback - R~~rear yard ~~setback~~ for accessory structures: 30 feet.

(e) Maximum height: 50 feet.

ARTICLE VII Residential R-12.5 District (§ 139-17 - § 139-18)

§ 139-17 Structures and uses.

The R-12.5 District is intended to encourage medium density residential development in conjunction with water and sewer services, **which are required in the R-12.5 District.** Provisions for open space protection and/or recreation may be provided on a neighborhood or community basis and should include portions of sites affected by sensitive environmental features. Development within this district should promote formation of cohesive neighborhoods which are harmoniously blended with the lower or higher intensity uses of surrounding areas. **. It is the policy of the Town to encourage cluster development (under Article 278 of the Town Law), to the extent practicable, for subdivision of [10] or more lots. The Town Board hereby authorizes the Planning Board to consider the use of cluster development at its sole discretion.**

A. Uses permitted by right (with building permit, where required) are as follows:

(1) Single-family dwelling on a permanent foundation (with public sewer and water) and accessory uses and structures.

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Utility substation.

(2) Church.

(3) Public school.

C. Uses permitted upon issuance of a special permit (see Article XVIII) **and ~~followed by~~** a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

(1) Child day-care facility [excluding such facilities described in Social Services Law § 390(12)(b)].

(2) Private school (nursery through college).

(3) Parks, playgrounds and other similar recreational facilities which are privately operated but ~~not-for-profit~~.

(4) Regulation golf courses.

D. The following **supplementary** regulations shall apply: ~~(Article XX—REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS):~~

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ???~~

(5) Accessory uses and structures.

(5) River Front

(6) Highway

§ 139-18 Dimensional requirements.

A. Residential uses and structures.

(1) Lots shall meet the following requirements:

(a) Lot Area, minimum: 12,500 square feet.

(b) Lot Width, minimum: ~~100~~ 70 feet.

(c) Lot Coverage, maximum: 25%.

(2) Principal structure and accessory structures shall meet the following requirements:

(a) Setback - Front yard setback: ~~40~~ 30 feet.

(b) Setback - Side yard setback 10 feet:

——— [1] One side: 10 feet.

————— [2] Total of both sides: 25 feet. ???

(c) Setback - Rear yard setback for principal structures: 40 feet.

(d) Setback - Rear yard setback for accessory structures: 10 feet.

(e) Maximum height: 30 feet.

B. Nonresidential structures and uses ~~(MAKE SENSE?)~~.

(1) Lots shall meet the following requirements:

(a) Lot Area, minimum: 80,000 square feet.

(b) Lot Width, minimum: 200 feet.

(c) Lot Coverage, maximum: 25%.

(2) Principal structure and accessory structures shall meet the following requirements:

(a) ~~Setback F-~~ front yard setback: 100 feet.

(b) ~~Setback - S~~side yard ~~setback~~:

[1] One side: 30 feet.

[2] Total of both sides: 50 feet.

(c) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(d) ~~Rear-Setback - rear~~ yard ~~setback~~ for accessory structures: 30 feet.

(e) Maximum height: 50 feet.

ARTICLE VIII R-10 District (§ 139-19 - § 139-20)

§ 139-19 Structures and uses.

The R-10 District is intended to encourage medium to high density residential development in conjunction with water and sewer services, **which are required in the R-10 District**. It permits a range of residential densities to be developed in a concentrated manner so the balance of a site may allow for open space protection, recreational uses or attractive landscaping. Higher levels of development are intended to provide means of avoiding disruption of sensitive environmental features while offering the additional economic and housing opportunities of the community.

A. Uses permitted by right (with building permit, where required) are as follows:

(1) Single-family dwelling on a permanent foundation (with public water and sewer) and accessory uses and structures.

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Two-family dwelling.

~~(2) Multiple family dwelling (up to four dwelling units).~~

(23) Utility substation.

(34) Church.

(45) Public school.

C. Uses permitted upon issuance of a special permit (see Article XVIII) and; followed by a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

(1) Child day-care facility [excluding such facilities described in Social Services Law § 390(12)(b)].

(2) Private school (nursery through college).

(3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.

(4) Regulation golf courses.

D. The following ~~supplementary~~ regulations shall apply. ~~(Article XX — REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS):~~

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ???~~

(45) Accessory uses and structures.

(5) River Front

(6) Highway

§ 139-20 Dimensional requirements.

A. Residential structures and uses.

(1) Lots shall meet the following requirements:

Regulation	1-Family	2-Family	Multiple Family
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Lot Aarea, minimum (square feet)	10,000	16,000	16,000, plus 5,000 per living unit in excess of 2 units
Lot Wwidth, minimum (feet)	80-70	125-100	200
Coverage, maximum	30 25%	30 25%	40%

(2) Principal structure and accessory structures shall meet the following requirements:

Regulation	1-Family	2-Family	Multiple Family
Front yard setback (feet)	40-30	40-30	40
Side yard setback 1 side (feet)	10	10	10
Total of both sides (feet)	25	25	25 ????
Rear yard setback Principal structures (feet)	30	30	30
Accessory structures (feet)	10	10	10
Maximum height (feet)	30	30	30

B. Nonresidential uses and structures.

(1) Lots shall meet the following requirements:

- (a) Lot Aarea, minimum: 80,000 square feet.
- (b) Lot Wwidth, minimum: 200 feet.
- (c) Lot Ccoverage, maximum: 25%.

(2) Principal structure and accessory structures shall meet the following requirements:

(a) ~~Setback - F~~front yard ~~setback~~: 100 feet.

(b) ~~Setback - R~~Side yard ~~setback~~:

[1] One side: 30 feet.

[2] Total of both sides: 50 feet.

(c) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(d) ~~Setback - R~~rear yard ~~setback~~ for accessory structures: 30 feet.

(e) Maximum height: 50 feet.

ARTICLE IX Agricultural District (§ 139-21 - § 139-22)

§ 139-21 Structures and uses.

This district is intended for rural portions of the Town which are characterized by farms, ~~and extremely~~ low density residential uses ~~and preservation of open space~~. In accordance with the Town of Lysander Comprehensive Land Use Plan preservation of farmland shall be of the highest priority. ~~In accordance with the Town of Lysander Comprehensive Land Use Plan preservation of farmland shall be of the highest priority.~~ Properties within this district typically rely upon individual on-site systems for provision of essential water supply and septic disposal. Therefore, in order to ensure adequate separation of these essential systems and to prevent any undue burden upon the natural environment, the required minimum residential lot size is the largest within the town. The large lot is furthermore intended to promote a separation of farms and unrelated residential uses to protect both activities from the potential adverse effects each has upon the other. The overall level of development within this district is encouraged to be maintained at a low intensity so that the cumulative effects of development are able to be absorbed within the existing unimproved conditions and facilities of the area.

A. Uses permitted by right (with building permit, where required) shall be as follows:

(1) Single-family dwelling on a permanent foundation and accessory uses and structures.

(2) Farm, with the following restrictions:

(a) No retail or commercial activity shall take place other than the storage, processing and sale of farm products predominantly produced by the farmer.

(b) The storage of manure shall not take place within 100 feet of the nearest lot line.

(c) No farm stock, horses or other animals other than household pets shall be kept in a building, any part of which is closer to the nearest lot line than 100 ~~300~~ feet. ~~No garbage or refuse ????? shall be used for feed other than that actually produced on the premises.~~

(d) Farms are exempt from § 139-22B.

(3) Seasonal produce stand.
[Added 3-7-2002 by L.L. No. 2-2002]

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Two-family dwelling.

(2) Residential marina.

(3) Church.

(4) Utility substation.

(5) Public school.

(6) Farm stand.
[Added 3-7-2002 by L.L. No. 2-2002]

C. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and ,followed by~~ a controlled site review (see Article XVII), are as follows:
[Amended 3-7-2002 by L.L. No. 2-2002; 6-23-2005 by L.L. No. 3-2005]

(1) Child day-care facility [excluding such facilities described in Social Services Law § 390(12)(b)].

(2) Private school (nursery through college).

(3) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.

(4) Regulation golf courses.

(5) Country store.

(6) Private recreational campsites. ~~(DEFINED??).~~

- (7) Tourist home.
- (8) Farm produce processing.
- (9) Farm supply and/or equipment sales and service.
- (10) Veterinarian.
- (11) Kennel.
- (12) Stables.
- (13) Natural production uses [????](#).

D. The following supplementary regulations shall apply:

- (1) Height, yard and corner lot exceptions.
- (2) Off-street parking and loading.
- (3) Signs.
- (4) Screening and landscaping.
- (5) Accessory uses and structures.

§ 139-22 Dimensional requirements.

A. Residential structures and uses.

- (1) Lots shall meet the following requirements:

Regulation	One-Family	Two-Family
Area, minimum (square feet)	80,000	120,000
Width, minimum (feet)	200	250
Coverage, maximum	25%	25%

- (2) Principal structure and accessory structures shall meet the following requirements:

Regulation	One-Family	Two-Family
Front yard		

setback (feet)	50	50
Side yard setback		
One side (feet)	20	20
Total of both sides (feet)	40	40
Rear yard setback		
Principal structures (feet)	50	50
Accessory structures (feet)	20	20
Maximum height (feet)	30	30

B. Nonresidential uses and structures.

- (1) Lots shall meet the following requirements:
 - (a) Lot Area, minimum: 80,000 square feet.
 - (b) Lot Width, minimum: 250 feet.
 - (c) Lot Coverage, maximum: 25%.
- (2) Principal structure and accessory structures shall meet the following requirements:
 - (a) Setback - Ffront yard-setback: 100 feet.
 - (b) Setback - Sside yard-setback:
 - [1] One side: 30 feet.
 - [2] Total of both sides: 50 feet. ???
 - (c) Setback - Rrear yard setback-for principal structures: 50 feet.
 - (d) Setback - Rrear yard setback-for accessory structures: 30 feet.
 - (e) MMaximum height: 50 feet.

ARTICLE X Neighborhood Residential-
Business-Service District (NS) (§ 139-23 - § 139-24)

§ 139-23 Structures and uses.

[Amended 6-23-2005 by L.L. No. 3-2005]

This district is intended to permit limited retail, personal and office uses within residential areas. Within this district, business uses of a size, appearance and type which are compatible with residential uses may coexist in close proximity with dwellings.

A. Uses permitted by right (with building permit, where required) are as follows:

(1) Single-family dwelling on a permanent foundation and accessory uses and structures. ~~(ON PUBLIC SEWER AND WATER??).~~

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Two-family dwelling.

(2) Coffee shop, bakery shop, confectionary shop, donut shop, sub shop, pizza shop, delicatessen and the like, provided the products prepared or processed on the premises shall be sold only at retail and only at the premises. ~~(except drive-in or drive-thru service??).~~

(3) Boutiques and specialty retail shops, including book shop, card shop, gift shop, video shop, newspaper and magazine shop, drug store, stationery shop, arts and crafts shop and the like.

(4) Barber shop, beauty shop and other similar personal service shops (except tattoo parlors).

(5) Bank and credit union.

(6) Insurance office, real estate office, lawyer's office, physician/dentist office, and other similar business or ~~New York State Licensed professional Professional office Office (LICENSED BY THE STATE OF NEW YORK??).~~

(7) Liquor shop.

(8) Restaurant (except drive-in service or drive-thru service).

(9) Meat market, fish market, specialty food shop and convenience food shop ~~(except drive-in or drive-thru service??).~~

(10) Church, including church-sponsored school or day-care center.

(11) Utility substation.

C. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and followed by~~ a controlled site review (see Article XVII) are as follows:

~~(1) Multifamily dwelling (up to four dwelling units).~~

(12) Tourist home (bed and breakfast).

(23) Parks, playgrounds and other similar recreational facilities which are privately owned and operated by a ~~but~~ not-for-profit (use this wording for all districts).

(4) Child day-care center [excluding such facilities described in Social Services Law Section 390(12)(b)].

(5) Limited motor vehicle fuel sales (with or without convenience shop or other permitted use) (fuel dispensing equipment shall have the capacity to simultaneously fuel no more than eight vehicles).

(6) Uses not specifically mentioned but similar to those listed above (including those in Subsection B above). The Zoning Board of Appeals ~~Planning Board~~ shall make a specific finding that such use is of the same character as those permitted in this district before granting a special permit for such a similar use.

D. Prohibited uses are as follows:

(1) A building used for business purposes, or that part of a building which is used for business purposes, with a total horizontal area on all floors in excess of 3,000 square feet measured along the outside faces of exterior walls. Any variance to this size restriction shall be considered a use ~~LEGAL?????~~ variance.

~~(2) Outdoor sales, display or business operations (except fuel sales).~~

(23) Detached accessory buildings on lots used primarily for nonresidential purposes (except required canopies over fuel pumps).

E. The following ~~supplemental~~ regulations shall apply: ~~(Article XX — REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS):~~

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ??~~

(54) Accessory uses and structures [but see Subsection D(3) above].

(5) River Front

(6) Highway

F. Special requirements for business uses:

(1) To foster compatibility with nearby residential uses, no business shall be operated between the hours of 12:00 midnight and 5:00 in the morning, prevailing time ~~(PROBABLY NOT LEGAL)~~ ~~(TED is this legal)~~.

(2) Site lighting shall be recessed or shielded in such a way that source light is not visible at the lot line.

(3) Site lighting shall be dimmed or reduced to a level or in a manner prescribed by the Planning Board between the hours of 11:00 p.m. and 6:00 a.m.

~~——(4) All customer parking areas shall be hard surfaced (DO WE WANT TO KEEP?).~~

(5) Buffers shall be required along all side and rear lot lines which abut an adjacent residential lot, and may be required in other circumstances as the Planning Board deems appropriate.

(6) To the extent practicable, new or remodeled buildings shall employ an exterior design compatible with residential structures, with pitched roofs, natural-looking siding materials, and other residential architectural features.

(7) Exterior noise and odors shall be minimized. Exterior speakers shall not be permitted or used without the specific approval of the Planning Board ~~except to the extent required by law~~.

(8) Pumps and islands at motor vehicle fuel sales businesses shall be arranged to minimize the size of the canopy ~~???~~.

§ 139-24 Dimensional requirements.

A. Residential uses and structures.

(1) Lots shall meet the following requirements:

Regulation	1-Family	2-Family	Multiple Family
Lot A area, minimum (square feet)	2040,000	304080,000	35,000
Lot W width,			

(minimum) (feet)	100-200	150-300	200
Lot Coverage, maximum	25%	30%	40%

(2) Principal structure and accessory structures shall meet the following requirements:

Regulation	1-Family	2-Family	Multiple-Family
Front yard setback (feet)	50	50	50
Side yard setback			
One side (feet)	10	10	10
Total of both sides (feet)	20 30	30	30
Rear yard setback			
Principal structures	50	50	50
Accessory structures	10	10	10
Maximum height (feet)	30	30	30

B. Nonresidential uses and structures.

(1) Lots shall meet the following requirements:

- (a) ~~Lot Area~~, minimum: 20,000 square feet.
- (b) ~~Lot Width~~, minimum: 100 feet.
- (c) ~~Lot Coverage~~, maximum: 50%.

(2) Principal structure and accessory structures shall meet the following requirements:

- (a) ~~Setback - FFront yard-setback~~: 50 feet.
- (b) ~~Setback - Sside yard-setback~~:

[1] One side: 10 feet.

[2] Total of both sides: 30 feet. ???

(c) ~~Setback - Rear yard setback~~ for principal structures: 50 feet.

(d) ~~Setback - Rear yard setback~~ for accessory structures: 10 feet.

(e) Maximum height: 30 feet.

~~A~~ARTICLE XI Retail Service District (§ 139-25 - § 139-26)

§ 139-25 Structures and uses.

This district is intended to provide for the full range of retail, personal or office services in a well-designed suburban setting. Uses within this district will serve large areas of the Town and will rely heavily upon good highway access for shopping and employee trips. This district is intended to be situated along major routes and on sites that provide sufficient area for buffering from adjoining residential areas.

A. Uses permitted by right (with building permit, where required) are as follows:

(1) Changes of occupancy (~~same-similar~~ use **to be determined by Code Enforcement Officer**).

B. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Retail or personal service use.

(2) Office.

(3) Restaurant.

(4) Mortuary.

(5) Hospital.

(6) Nursing home.

(7) Church.

(8) Utility substation.

~~(9) Dwelling units associated with control site review uses.~~

C. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and ,followed by~~ a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

(1) Shopping center.

(2) Drive-in service.

(3) Motor vehicle service station.

(4) Hotel/motel.

(5) Indoor/~~Outdoor~~ recreation.

(6) Commercial marina.

(7) Veterinary treatment facility (no animals shall be ~~kept housed~~ outside).

~~(8) Dwelling units associated with special permit uses ????.~~

(9) Parks, playgrounds and other similar recreational facilities which are privately operated but not ~~for-profit~~.

(10) Regulation golf courses.

(11) Tourist home.

D. Prohibited uses are as follows:

~~——(1) Outdoor sales, display or operation (DEFINED?).~~

~~(2) Residential uses. Freestanding dwelling units ????.~~

E. The following ~~supplementary~~ regulations shall apply: ~~(Article XX — REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS):~~

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping.~~

(45) Accessory uses and structures.

(5) River Front

(6) Highway

§ 139-26 Dimensional requirements.

For retail service uses and structures:

A. Lots shall meet the following requirements:

(1) ~~Area~~Lot area, minimum: 80,000 square feet.

(2) Lot ~~W~~width, minimum: 200 feet.

(3) Lot ~~C~~coverage, maximum: 30%.

B. Principal structure and accessory structures shall meet the following requirements:

(1) ~~Setback - F~~front yard ~~setback~~: 100 feet.

(2) ~~Setback - S~~side yard ~~setback~~:

(a) One side: 20 feet.

(b) Total of both sides: 45 feet. ???

(3) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(4) ~~Setback - R~~rear yard ~~setback~~ for accessory structures: 20 feet.

(5) Maximum height: 50 feet.

ARTICLE XII General Business District (§ 139-27 - § 139-28)

§ 139-27 Structures and uses.

This district is intended to preserve certain uses permitted in the General Business District under the ~~1974~~Current Zoning Ordinance of the Town of Lysander. ~~DO WE NEED THIS STILL???~~

A. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Retail or personal service use.

(2) Wholesale or warehouse establishments.

(3) Offices.

(4) Restaurant.

(5) Utility substation.

B. Uses permitted upon issuance of a special permit (see Article XVIII) and ~~followed by~~ a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

(1) Drive-in services.

(2) Automobile sales, including accessory service, but not including used car sales unless on the same lot and accessory to the sale of new automobiles as the principal and regular business ~~????~~.

(3) Equipment sales, including accessory service.

(4) Outdoor sales of boats, trailers, building supplies and other consumer products, including accessory service.

(5) Motor vehicle service station.

(6) Public garage.

(7) Motel/hotel.

(8) Parks, playgrounds and other similar recreational facilities which are privately operated but ~~not-for-profit~~.

(9) Regulation golf courses.

(10) Golf driving ranges and other commercial amusements.

(11) Veterinary treatment facility (no animals shall be kept outside).

(12) ~~Indoor/Outdoor recreation facilities~~

C. Prohibited uses are as follows:

(1) Residential uses (except for on-site residency of security and/or caretaker personnel).

D. The following ~~supplementary~~ regulations shall apply: ~~(Article XX — REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS:~~

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ??~~

~~(5) Accessory uses and structures.~~

(5) River Front

(6) Highway

§ 139-28 Dimensional requirements.

For nonresidential structures and uses:

A. Lots shall meet the following requirements:

(1) ~~Lot A~~area, minimum: 80,000 square feet.

(2) ~~Lot W~~width, minimum: 200 feet.

(3) ~~Lot C~~coverage, maximum: 30%.

B. Principal structure and accessory structures shall meet the following requirements:

(1) ~~Setback - F~~front yard ~~setback~~: 100 feet.

(2) ~~Setback - S~~ide yard ~~setback~~:

(a) One side: 20 feet.

(b) Total of both sides: 45 feet. ~~??~~

(3) Rear yard setback for principal structures: 50 feet.

(4) Rear yard setback for accessory structures: 20 feet.

(5) Maximum height: 50 feet.

ARTICLE XIII General Commercial District (§ 139-29 - § 139-30)

§ 139-29 Structures and uses.

This district is intended for commercial uses that need good highway access and large site areas for their buildings and/or for outdoor storage, display or operations. Retail and nonretail commercial uses which are not reliant upon close proximity to residential areas and which are not generally compatible to residential uses are encouraged within this district. ~~DO WE STILL NEED THIS??~~

A. Uses permitted upon controlled site review (see Article XVII) area as follows:

- (1) Retail or personal service use.
- (2) Wholesale or warehouse establishments.
- (3) Offices.
- (4) Restaurant.
- (5) Utility substation.

B. Uses permitted upon issuance of a special permit (see Article XVIII), ~~followed by~~ and a controlled site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

- (1) Drive-in services.
- (2) Automobile sales, including accessory service.
- (3) Equipment sales, including accessory service.
- (4) Hospital.
- (5) Outdoor sales of boats, trailers, building supplies and other consumer products, including accessory service.
- (6) Motor vehicle service station.
- (7) Public garage.
- (8) Motel/hotel.

(9) Parks, playgrounds and other similar recreational facilities which are privately operated but not for profit.

(10) Regulation golf courses.

(11) Golf driving ranges and other outdoor commercial amusements.

(12) Veterinary treatment facility (no animals shall be kept outside).

C. Prohibited uses are as follows:

(1) Residential uses (except for on-site residency of security and/or caretaker personnel).

D. The following ~~supplementary~~ regulations shall apply:

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping.~~

(45) Accessory uses and structures.

(5) River Front

(6) Highway

§ 139-30 Dimensional requirements.

For nonresidential structures and uses:

A. Lots shall meet the following requirements:

(1) Lot Area, minimum: 80,000 square feet.

(2) Lot width, minimum: 200 feet.

(3) Lot Coverage, maximum: 30%.

B. Principal structure and accessory structures shall meet the following requirements:

(1) Setback - Front yard setback: 100 feet.

(2) ~~Setback - S~~side yard ~~setback~~:

(a) One side: 20 feet.

(b) Total of both sides: 45 feet. ???

(3) ~~Setback - R~~rear yard ~~setback~~ for principal structures: 50 feet.

(4) ~~Setback - R~~rear yard ~~setback~~ for accessory structures: 20 feet.

(5) Maximum height: 50 feet.

ARTICLE XIV Industrial District (§ 139-31 - § 139-33)

§ 139-31 Structures and uses.

This district is intended for uses which focus on the movement, storage or processing of raw materials or finished/semi-finished goods. Good access to major transportation routes (highway, railroad or river) is to be encouraged as is separation from and buffering from nearby residential areas. Performance standards, especially those emphasizing environmental protection, will be a crucial part of this district's review criteria.

A. Uses permitted upon controlled site review (see Article XVII) are as follows:

(1) Retail or personal service accessory to the wholesale or industrial establishment.

(2) Wholesale or warehouse establishment.

(3) Trucking terminal.

B. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and, followed by~~ a controlled site review (see Article XVII), are as follows:

[Amended 6-23-2005 by L.L. No. 3-2005]

(1) All uses except those in Subsection C below.

C. Prohibited uses are as follows: ~~(ADULT USES ALSO??):~~

(1) Residential uses except for on-site residency of caretaker and/or security personnel.

(2) The operation of stockyards, slaughterhouses and rendering plants.

(3) The production from raw materials of chemicals, cement, explosives, paint products, rubber, soaps, starch and the by-products of coal, coke, petroleum and natural gas.

(4) The reduction, refining, smelting and alloying of metal or metal ores; the distillation of wood or bones; or the reduction and processing of wood pulp and fiber. [Amended 9-15-1997 by L.L. No. 3-1997]

D. The following ~~supplementary~~ regulations shall apply (~~Article XX—REVIEW CONCEPT OF SUPPLEMENTARY REGULATIONS~~):

(1) Height, yard and corner lot exceptions.

(2) Off-street parking and loading.

(3) Signs.

~~(4) Screening and landscaping. ???~~

~~(45) Accessory uses and structures.~~

(5) River Front

(6) Highway

§ 139-32 Dimensional requirements.

For structures and uses:

A. Lots shall meet the following requirements:

(1) ~~Lot A~~area, minimum: 80,000 square feet.

(2) ~~Lot W~~width, minimum: 300 feet.

(3) ~~Lot C~~coverage, maximum: 30%.

B. Principal structure and accessory structures shall meet the following requirements:

(1) ~~Setback F-~~ front yard ~~setback~~: 100 feet.

(2) ~~Setback - Side yard~~ ~~setback~~:

(a) One side: 25 feet.

(b) Total of both sides: 50 feet.

(3) ~~Setback - Rear yard setback~~ for principal uses: 50 feet.

(4) ~~Setback - Rear yard setback~~ for accessory uses: 25 feet.

(5) Maximum height: no structure shall be higher than any point on imaginary lines drawn from the lot lines inclining upward at a slope of one-foot vertically for each one-foot horizontally ???.

§ 139-33 Performance standards (~~TED should this be mover to Article XX~~) (~~IS THIS JUST FOR INDUSTRIAL OF FOR ALL DISTRICTS??~~). [~~COVERED UNDER NEW BUILDING AND ENFORCEMENT CODES???~~] see article XX.
(move A,B,C&D to article XX)

A. Fire and explosion hazards. There shall be no activities or storage involving ~~in~~flammable and explosive materials without adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices. There shall be no burning of waste materials. There shall be no storage of crude oil or any of its volatile products or other highly flammable liquids in aboveground tanks except in accordance with state regulations, and all such tanks having a capacity of 10,000 gallons or more shall be properly diked with dikes having a capacity equal to 1 1/2 times the capacity of the tanks or tanks surrounded.

B. Radioactivity. There shall be no activities which emit radioactivity dangerous to health or adversely affecting the operation of any equipment.

C. Water and air pollution. There shall be no emission into the atmosphere of fly ash, dust, fumes, vapors, gases and other forms of air pollution which can cause damage to life or property or discharge into any sewage-disposal system or stream or into the ground of any materials of such a nature or temperature as can contaminate any watercourse or supply or can cause any dangerous or unhealthy condition, except upon approval of applicable state and/or local agencies having jurisdiction to regulate such air or water pollution.

D. Heat, cold, movement of air or dampness. There shall be no activities which produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.

ARTICLE XV NYS Flowage Easement District (§ 139-34 - § 139-34)

§ 139-34 Structures and uses.
[Amended 9-9-2004 by L.L. No. 5-2004]

NYS Flowage Easement Districts are indicated on the Zoning Map as those areas of the Town along the shore of the Seneca River, [Oswego River](#) and the Barge Canal over which the State of New York has acquired flowage easements. Such easements are to

protect the State against litigation if water levels rise above normal maximums and flood conditions occur.

A. Uses permitted by right are as follows:

(1) Only residential uses lawfully existing as of the date of this amendment are allowed. ~~(I ASSUME SEPTIC AND WELLS??).~~

(2) Allowed structures include single-family dwellings on a permanent foundation ~~and accessory structures, including garages and storage sheds,~~ lawfully existing as of the date of this amendment. No new single-family dwellings or the lateral expansion of lawfully existing single-family dwellings or accessory structures shall be allowed.

B. Uses permitted upon issuance of a special permit (see Article XVIII) ~~and followed by a controlled-controlled~~ site review (see Article XVII), are as follows:
[Amended 6-23-2005 by L.L. No. 3-2005]

~~(1) The construction of a new accessory structure on a lot containing a lawfully existing single family dwelling as of the date of this amendment and on which lot no similar accessory structure exists. New accessory structures shall comply with the following conditions:~~

~~_____ (a) Maximum size: 480 square feet.~~

~~_____ (b) Maximum height: 15 feet.~~

~~_____ (c) Compliance with the dimensional requirements set forth below.~~

(2) The reconstruction of a single-family dwelling -or an accessory structure lawfully existing as of the date of this amendment, with the following conditions:

(a) The square footage of the first floor of a reconstructed single-family dwelling shall not be greater than that of the dwelling being replaced. Reconstructed single-family dwellings shall also conform to the minimum floor area requirements (see § 139-56) without exceeding the square footage of the first floor of the dwelling being replaced. ~~No increase in the volume of living space or occupancy is allowed without county health department approval of the existing onsite waste water disposal system.~~

(b) The square footage of a reconstructed accessory structure shall not be greater than that of the accessory structure being replaced or a maximum of 480 square feet, whichever is less.

(c) A reconstructed accessory structure shall be limited to a maximum height of 15 feet, regardless of the height of the accessory structure being replaced.

(d) Reconstructed structures shall comply with the dimensional requirements set forth below. ~~????~~

C. Dimensional requirements. Principal and accessory structures shall meet the following minimum requirements. If one of the following requirements is in conflict with a requirement set forth in the Riverfront Development Overlay Controls (Article XXII) (~~HOW DO THEY INTERACT??~~), the more restrictive requirement shall apply.

(1) ~~Setback - F~~front yard-~~setback~~: 40 feet.

(2) ~~Setback - S~~side yard-~~setback~~:

(a) On a lot 50 feet or less in width:

[1] One side: five feet.

[2] Total of both sides: 15 feet. ~~???~~

(b) On a lot greater than 50 feet in width:

[1] One side: 10 feet.

[2] Total of both sides: 25 feet. ~~???~~

(3) Rear yard setback. On lots abutting the river system, the Riverfront Development Overlay Controls (see Article XXII) shall apply. The following rear yard setbacks shall apply to lots, or that portion of a lot, separated from the river system by a public road.

(a) Principal structures: 30 feet.

(b) Accessory structures: 10 feet.

(4) Maximum height of single-family dwellings: 30 feet.

D. The following supplementary regulations shall apply:

(1) Corner lots.

(2) Parking.

(3) Signs.

(4) Nonconforming uses.

(5) Minimum floor area.

(6) Accessory uses and structures (subject to § 139-34B above).

(7) Riverfront Development Overlay controls (see Article XXII).

(8) Chapter 75 of the Town of Lysander Code (Floodplain Protection).

ARTICLE XVI Planned Unit Development District (§ 139-35 - § 139-38)

~~VERY CONFUSING. SITE PLAN AND DEVELOPMENT PLAN SEEM TO BE USED INTERCHANGABLY. THERE IS NO PROVISION FOR SUBDIVISION OF LAND (WHICH IS REQUIRED IF YOU ARE GOING TO SELL LAND IN NYS). ONCE THE TOWN BOARD APPROVES A PUD (PRESUMABLY BASED ON A DEVELOPMENT PLAN) THE PLANNING BOARD SHOULD THEN BE IN CONTROL. THERE SEEMS TO BE CONFUSION OVER WHETHER THE TOWN BOARD OR THE PLANNING BOARD DETERMINES DENSITY, DIMENSIONAL REQUIREMENTS AND USE REQUIREMENTS.~~

(Speak to Ted about adult uses)

§ 139-35 Purpose.

A. Planned Unit Development Districts are designed to encourage and facilitate the construction of more efficient and desirable suburban development than can be accomplished within the framework of conventional zoning categories. They will permit the development of urban areas which will foster a sense of community among their residents. Development at a large scale is most conducive to a design that will accomplish this purpose because it provides opportunities for integral development. Through a diversity of compatible land uses, such an integrated development plan will give the project area a distinctive visual character and identity. To assist in accomplishing this purpose, developers of a planned unit development will be permitted the maximum freedom in design; however, extensive environmental ~~amenities-review~~ and ~~development~~ ~~General Project Plan Definitions~~ ~~plans~~ will be required ~~and~~ along with detailed site plans (~~DEVELOPMENT PLANS??~~) ~~and subdivision plats~~ will be subject to intensive review by the Town Planning Board to assure the projects' compatibility with adjacent development, the general neighborhood and the Town as a whole. In a Planned Unit Development District, conventional zoning restrictions (~~like dimensional and use ????~~ ~~requirements~~) will be included and reviewed during the General Project Plan review ~~site plan and subdivision~~ process to ensure that purposes set forth above are met.

~~B. No Planned Unit Development District shall be created by amendatory action of the Town Board and no site plan or subdivision approval shall be rendered by the Planning Board, permitting the issuance of a building permit, without full compliance of the following regulations and procedures. It is understood that certain public benefit features will be required to ensure that the quality of design and amenity are sufficient to justify the departure from conventional zoning restrictions. Emphasis on the preservation of natural site attributes will be accomplished through design and placement of structures which complement rather than conflict with the natural terrain and other natural features such as trees and watercourses. The following regulations do not specify precise rules for the arrangement of the structures on the site, but rather require that they be compatible with each other and with adjacent developments.~~

~~[Amended 3-24-2008 by L.L. No. 4-2008]~~

B. Upon the Town Board receiving an application for a Planned Unit Development zone change request or additional land uses within the existing General Project Plan for a planned unit development the General Project Plan shall be referred to the Town Planning Board for review and comment prior to any action being taken by the Town Board.

§ 139-36 District regulations.

Once lands have been rezoned by the Town Board as a Planned Unit Development District, the set of use and dimensional specifications, the latter of which applies to the placement of structures on the land, elsewhere in this chapter shall be replaced in Planned Unit Development Districts by an approval process in which the approved ~~site plan and subdivision plat~~ General Project Plan including its land use maps becomes the basis for continuing land use controls, provided further that, in Planned Unit Development Districts, all structures and uses shall be subject to the following regulations.

A. Minimum area. No land shall be designated for a Planned Unit Development District ~~(TOWN BOARD RULES)~~ if it is too small, too narrow in width, too irregular in shape or with too excessive topography to be planned and developed in a manner consistent with ~~proper land use~~ acceptable land use practices. Under normal circumstances, the minimum area required to qualify for a Planned Unit Development District shall be 50 contiguous acres of land., ~~except for residential parks containing factory manufactured, prefabricated or modular homes where the minimum shall be 25 contiguous acres of land.~~ The Planning Board may recommend the waiver of these minimum areas to the Town Board ~~areas~~ if the Planning Board finds the proposed ~~development~~ General Project Plan to be in accord with the ~~general town development plan~~ Town of Lysander comprehensive land use plan.

B. Permitted uses. ~~All varieties and types of residential uses, including residential parks containing factory manufactured, prefabricated or modular homes, with accessory and associated uses and the full range of nonresidential uses in suitable spatial relationships and with adequate connectors shall be permitted.~~ include all applicable land uses as defined in General Project Plan which are in accordance with the Town of Lysander Comprehensive Land Use Plan. ~~(INCLUDING ADULT USES??)~~

C. Density of development. ~~(BEFORE THE PROPERTY IS ZONED PUD??)~~

(1) The Planning Board shall recommend ~~(TO TOWN BOARD??)~~ to the Town Board the maximum residential density permitted for the residential portions of the Planned Unit Development District as a whole at the time of ~~development plan (SITE PLAN??)~~ General Project Plan and related land use maps approval. Such residential portions of the Planned Unit Development District may include those open spaces or portions thereof which serve them. The permitted maximum residential density for such areas shall not exceed four dwelling units per acre.

(2) The Planning Board may approve ~~a site plan and subdivision~~ the General Project Plan for a portion of the total ~~planned unit development~~ which proposes areas of higher residential density than the permitted maximum, provided that the overall density would not be increased beyond the specified maximum.

~~[Amended 3-24-2008 by L.L. No. 4-2008]~~

D. Open space. In every planned unit development, a minimum of 50% of the total area of the tract shall be provided as open space ~~in the General Project Plan and land use maps~~~~(AS DETERMINED BY A SITE PLAN OR SUBDIVISION PLAT???)~~. In a planned unit development, "open space" is that outdoor property not occupied by structures, roads or service areas and set aside in whole or in part to preserve the natural scenic beauty or openness of the area or for recreational use and enjoyment by the owners and residents of the planned unit development so as to enhance the present or potential value of the remaining lands in the planned unit development. "Developed open space" is that open space which contains such structures, improvements and/or landscaping as are necessary and appropriate for the benefit and enjoyment of the owners and residents of the planned unit development in their active and passive recreational purposes. Vehicular parking areas may be considered as developed open space for the purposes of this chapter.

E. Common property. "Common property" in a planned unit development is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared in common by the owners and residents of the development. When common property exists, the ownership of such common property ~~may be either public or shall be private~~. Where common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities ~~with the Town~~.

F. Ownership. The tract of land for a planned unit development may be owned, leased or controlled either by a single person, a corporation or by a group of individuals or corporations. An application must be filed by the owner or his designee or jointly by the owners or their designees of all property included in the tract. In the case of multiple ownership, the ~~development plan ??? and the site plan ???~~ General Project Plan shall be binding on all owners.

§ 139-37 Application procedure.

A. General. The fact that an application complies with all of the specific requirements set forth herein shall not be deemed to create a presumption that the proposed development would result in a more efficient and desirable development than could be accomplished by the use of conventional zoning categories nor that it would result in compatibility with the surrounding development nor shall such compliance, by itself, be sufficient to require the approval of the ~~development plan ??~~ General Project Plan, the site plan or the granting of the zoning amendment to create a planned unit development. Such a zone ~~change request??~~ shall be reviewed and recommended or rejected by the Planning Board for action by the Town Board on a finding that the application is or is not ~~proper for the~~

~~comprehensive and systematic development of~~ consistent with the Town of Lysander Comprehensive Land Use Plan.

B. Application for ~~development plan~~ Planned Unit Development -approval. In order for the Planning Board and the ~~developer-applicant~~ to reach an understanding on basic design requirements, the ~~developer-applicant~~ shall submit a plan of his proposal to the Planning Board (the "~~Development Plan~~ General Project Plan and associated land use maps"). Such a ~~P~~plan shall be to scale and shall be supplied in such form and quantity as the Planning Board may require and shall include the following information in addition to any other information which the applicant deems necessary to support his application:

(1) The principal physical characteristics of the site, including an analysis of the soils and subsoils, the location of major stands of trees, streams, floodplains and rock outcroppings.

(2) The topography of the site with contour intervals of not more than five feet of elevation; areas of the site where grades exceed 3%; portions of the site with a moderate to high susceptibility to erosion, flooding or ponding; and a preliminary grading plan with five-foot contour intervals. (In large-scale developments, only the grading plan of the first stage will be required at this time.)

(3) An analysis of the relationship of the site to the surrounding community, including significant parcels of vacant land and the character of nearby built-up areas.

(4) The principal ties to the community at large with respect to transportation, circulation, water supply, sewage disposal and other pertinent public utilities.

(5) A general description of the availability of other community facilities such as schools, fire protection and cultural facilities, if any, and some indication of how these needs are to be accommodated.

(6) The proposed ~~land use plan~~ General Project Plan and associated land use maps ?? indicating the location, numbers and types of dwelling units in each residential area; business and/or industrial areas; parks, playgrounds, recreational structures and facilities; open spaces; common property; and all other uses; the major and minor circulation pattern with all existing rights-of-way and easements, parking areas and pedestrianways. In large-scale staged developments, the requirements would be as follows: the proposed land use plan showing generally the location and size of all major land uses, including residential (indicating numbers and types of dwelling units), business and industrial areas, parks, playfields and other major recreational and open space uses, schools and other sites of major community facilities, major vehicular and pedestrian circulation systems and all other major physical elements.

(7) A generalized landscaping plan or, in the case of large-scale staged developments, a narrative description of the landscape plan along with typical plans for landscaping representative areas.

(8) A plan for the major drainage system prepared by an engineer licensed in the State of New York.

C. Review of ~~dDevelopment pPlan~~ General Project Plan and associated land use maps by Planning Board.

(1) The Planning Board shall review the ~~development-plan~~ General Project Pplan and associated land use maps and its related documents and shall render its report within 62 days of the date when all of the necessary application material has been presented. The Planning Board ~~shall~~may hold public hearings on the ~~Ddevelopment pPlan~~ General Project Plan and associated land use maps to assist it in the preparation of its report. -If no report has been rendered within 62 days, unless such time limit has been extended by formal action of the Planning Board, which action shall be submitted in writing to the applicant, the report shall be deemed to be favorable, and the Town Board shall be so informed.

(2) A favorable report shall be based on the following findings which shall be included as part of the report:

(a) The proposal implements the goals and policies expressed in the Town's ~~General Plan~~??Comprehensive Land Use Plan.

(b) The proposal meets all the general purposes of this chapter.

(c) The proposal represents a creative approach to the use of land through innovation and flexibility.

(d) The proposal is conceptually sound in that it meets a community need and it conforms to accepted design standards ~~in-of~~ the proposed roadway system, land use configuration, open space system and drainage system.

(e) There are adequate services and utilities available or proposed to be made available in the construction of the development.

(3) An unfavorable report shall state clearly, in writing, the reasons therefor and, if appropriate, point out to the applicant what might be necessary to receive a favorable report.

D. Application for planned unit development districting.

(1) Upon receipt of a report from the Planning Board, the Town Board may then consider the application for the Planned Unit Development District as any other application for amendment of this chapter and may establish a date for the conduct of a public hearing on such an amendment as provided by law.

(2) The Town Board shall take action upon the application for redistricting within 62 days immediately following the Planning Board review and issuance of a Report. Action taken by the Town Board shall be in writing and shall state clearly the reasons therefor. ~~ZONE CHANGE REQUESTS DO NOT REQUIRE ANY ACTION ON THE PART OF THE TOWN BOARD.~~

E. Zoning for planned unit development.

~~(1) If the Town Board grants the redistricting to Planned Unit Development District, the Zoning Map shall be so amended. When rezoning a parcel, the Town Board shall establish the maximum number of dwelling units therein and may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional requirements for the applicant to meet (WHY IS THE TOWN BOARD DETERMINING MAXIMUM NUMBER OF DWELLING UNITS—THIS IS A PLANNING BOARD FUNCTION AND SHOULD BE IN ITS REPORT).~~ Such requirements may include, but need not be limited to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, vehicular and pedestrian circulation systems, availability of sites within the area for necessary public services such as schools, firehouses and libraries, protection of natural and/or historic sites and other physical or social demands.

~~(2) (Reserved)~~

~~Editor's Note: Former Subsection E(2), regarding review of final site plan by the Planning Board, was repealed 3-24-2008 by L.L. No. 4-2008.~~

F. Site plan submission. In an area designated as a Plan Unit Development District, a detailed site plan and subdivision plat must be approved by the Planning Board prior to the issuance of a building permit or, in the case of a publicly sponsored development, prior to commencement of construction. The site plan and subdivision plat for all or a portion of the Planned Unit Development District shall be consistent with the ~~Development Plan~~ General Project Plan and associated land use maps. It shall show: ~~[Amended 3-24-2008 by L.L. No. 4-2008]~~

(1) All of the information normally required in the submission of a preliminary subdivision plan ~~????~~.

(2) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivisions, streets and easements within 500 feet of the applicant's property.

(3) The proposed location, coverage and use of all buildings other than single-family dwellings and industrial structures. If a building is a multiple-family dwelling, the number of dwelling units classified by the number of bedrooms.

(4) All roads, streets, parking areas and pedestrianways.

(5) The existing topography and final grading plan at contour intervals of not more than two feet.

(6) The proposed landscaping, lighting, signing and screening plans and the sites of all public or private common areas, including schools, parks, playgrounds and other community facilities, identifying land to be dedicated to public use.

(7) If the application is for one stage of the total development, the manner in which this stage is related to past and future stages and to the entire development.

(8) A plan showing parking facilities, areas of open space, density and common areas.

(9) Any other information required by the Planning Board to evaluate the consistency of the detailed site plan with the approved development plan.
[Amended 3-24-2008 by L.L. No. 4-2008]

G. Site plan review. Upon review by the Planning Board of the detailed site plan, it shall determine:

(1) Whether the detailed site plan is consistent with and carries out the intent of the ~~Development pPlan~~ [General Project Plan and associate land use maps](#) as approved.

(2) Whether, in the opinion of the Planning Board, the arrangements for the ownership and maintenance of the common land are workable and will result in the permanent preservation of such land for its indicated use.

(3) Whether, if the application involves less than the total area of the planned unit development, the development proposed under the site plan could exist by itself as a unit capable of sustaining an environment of continuing quality and stability consistent with the development plan. ~~Stages of total communities or new towns may be waived from this determination.~~

H. Site plan approval. Within 62 days of the receipt of a complete application for site plan approval, the Planning Board shall approve, with or without modifications, or disapprove the site plan by resolution. Said sixty-two-day period may be extended for one additional period of 62 days by resolution of the Planning Board upon a finding that additional time or information is necessary to complete review of the application. Any additional extensions past 124 days shall require the consent of both the applicant and the Planning Board. Upon approving an application, the Chairperson shall endorse the Planning Board's approval on a copy of the site plan and advise the [Zoning Administrative Code Enforcement](#) Officer, who shall then issue a building permit or permits if the project conforms to all other applicable requirements. Site plan approval entitles the developer to file with the Onondaga County Clerk a subdivision plat for lands within the approved site plan, provided that the site plan has been given subdivision

approval by the Planning Board and the signature of its Chairperson is affixed thereon. Upon disapproving an application, the Planning Board resolution shall specify reasons for the disapproval.

~~[Amended 3-24-2008 by L.L. No. 4-2008 Editor's Note: This local law also provided that, pursuant to § 22 of the Municipal Home Rule Law, to the extent that the provisions of this subsection conflict with the provisions of Town Law § 274-a, this subsection is intended to supersede that portion of Town Law § 274-a(8) relating to time limits for site plan approval. Editor's Note: This local law also provided that, pursuant to § 22 of the Municipal Home Rule Law, to the extent that the provisions of this subsection conflict with the provisions of Town Law § 274-a, this subsection is intended to supersede that portion of Town Law § 274-a(8) relating to time limits for site plan approval.]~~

§ 139-38 Additional regulations.

A. Following initial construction and occupancy, any changes other than use changes shall be considered as a site approval request under this Article of this chapter.

~~B. Use changes~~ Additional land uses not included in the General Project Plan must be considered as zoning amendments and must be acted upon by the Town Board as such.

~~C. Except for public developers, no building permits shall be issued for construction within a planned unit development until improvements have been installed or cash or a letter of credit has been provided in a manner and amount satisfactory to the Town Board.~~

ARTICLE XVII Controlled Site Review (§ 139-39 - § 139-41)

§ 139-39 Review required.

Structures and uses which are designated as permitted upon controlled site review in the zoning district regulations shall be authorized only after review as provided in this Article.

§ 139-40 Application procedure.

A. An application, which shall include detailed area, plot and landscaping plans, shall be made to the Zoning Administrative Officer who shall immediately refer it to the Planning Board. A stormwater pollution prevention plan (SWPPP) consistent with the provisions of §§ 139-70 and 139-71, infra shall be required for a controlled site permit approval. The SWPPP shall meet the performance and design criteria and standards in § 139-71, and be consistent with the provisions of Article XXVI of this chapter.

[Amended 2-11-2008 by L.L. No. 2-2008]

B. The Planning Board shall review the application to determine the compliance of the plans with the requirements set forth in this Article. Within 62 days after the date a complete application was received by the Zoning Administrative Officer, the Planning

Board shall, by resolution, approve the specified changes or disapprove the site plan. Said sixty-two-day period may be extended for one additional period of 62 days by resolution of the Planning Board upon a finding that additional time is necessary to complete the review of the application. Any additional extensions past 124 days shall be subject to the consent of both the applicant and the Planning Board. During its review, the Planning Board may have informal conferences with the applicant and accept amended plans and substitution for those originally filed-

C. Upon receipt of the resolution of the Planning Board and, if required, the receipt of amended plans making the specified changes, the Zoning Administrative Officer shall issue or deny a permit for a proposed structure and/or use.

§ 139-41 Additional requirements and regulations.

Structures and uses designated as permitted upon controlled site review shall conform to all the regulations of the district in which they are located and to any particular regulations which apply to them under other provisions of this chapter. In reviewing applications, the Planning Board shall give consideration to:

- A. The ~~Master Plan~~ Comprehensive Land Use Plan or any other comprehensive plan adopted by the Town of Lysander.
- B. Traffic and access to streets and highways.
- C. Safety from fire, flood and other dangers.
- D. Provision of adequate light and air.
- E. Prevention of land overcrowding and undue concentration of population.
- F. Transportation, water, sewerage, schools, parks and other public requirements.
- G. Character, height and use of structure, provision of surrounding open space, screening, landscaping, use of exterior lighting, noise and impact on visual resources.
- H. Where appropriate, the provision of adequate transition between adjacent uses and zoning districts.
- I. It shall be in the sole discretion of the Planning Board to determine if an amendment to an existing Site Plan is material and, therefore, subject for additional review by the Planning Board.

ARTICLE XVIII Special Permit Uses (§ 139-42 - § 139-45)

§ 139-42 Application.

~~View~~ Structures and uses which are designated as permitted upon issuance of a special permit in the zoning district regulations shall be authorized only after the issuance of a permit as provided in this Article.

§ 139-43 Uses to satisfy requirements; Board of Appeals ~~Planning Board~~ to grant permits.

A. The types of uses for which special permits are required shall be deemed to be permitted in their respective districts, subject as to each specific use to the satisfaction of the requirements and the standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstance of such use.

~~B. In every case where a special permit is required by this chapter, such special permit shall be granted by a majority vote of the Board of Appeals~~~~Planning Board~~ only after a public hearing upon 5 days' notice has been held.

~~BC.~~ The Board of Appeals ~~Planning Board~~ shall grant the issuance of special use permits where required under the provisions of this chapter. A stormwater pollution prevention plan (SWPPP) consistent with the provisions of §§ 139-70 and 139-71, infrastructure shall be required for a special permit approval. The SWPPP shall meet the performance and design criteria and standards in § 139-71, and be consistent with the provisions of Article XXVI of this chapter.

~~[Amended 6-23-2005 by L.L. No. 3-2005; 2-11-2008 by L.L. No. 2-2008]~~

§ 139-44 Findings of Board of Appeals ~~Planning Board~~.

Special permits shall be issued by the ~~Board of Appeals~~ ~~Planning Board~~ upon the following findings:

A. The proposed use is consistent with an orderly and appropriate development of the neighborhood and surrounding area.

B. The proposed use is not unreasonably detrimental to the existing structures or uses in the neighborhood by reason of noise or vibration, odor or other form of air pollution, fire or explosive hazard, glare or any other substance, condition or element.

C. The proposed use, as to general character, height and use of structure, the provisions of surrounding open space and treatment of grounds and as to its effect on street capacity and use, is sufficient to safeguard public health, comfort and convenience and to preserve the general character of the neighborhood in which such structure is to be placed or such use is to be conducted.

D. Where appropriate, the proposed use is an adequate transition between adjacent uses or districts.

E. The use thereof will not cause undue traffic congestion or create a traffic hazard.

§ 139-45 Standards.

A. Motor vehicle service stations and public garages.

(1) All motor vehicle service stations and public garages shall be so arranged that:

(a) The lot upon which the facility is located shall have a minimum frontage of 150 feet on a major road as designated in the ~~General Plan~~ ~~Comprehensive Land Use Plan~~ of the Town of Lysander.

(b) Curb cuts into the facility shall not be more than 30 feet in ~~width~~ ~~length~~ and shall not be closer than 75 feet to an existing street or road intersection.

(c) No pump, lubricating or other device shall be located closer to a front or side property line than 25 feet, except as noted in § 139-60 of Article XXI.

(d) ~~At the discretion of the Board of Appeals~~ ~~Planning Board~~, A ten-foot wide landscaped buffer area ~~or natural area~~ shall be located along all property lines except those adjacent to existing commercial uses. Such areas ~~crossed along by~~ curb cuts shall be planted by low shrubs limited in height to three feet. All other buffer areas shall be densely planted with shrubs, trees and/or fencing not less than six feet in height. ~~All buffer areas shall be protected by at least a six-inch concrete or granite curbing.~~

(e) There shall be no outside storage or display of accessories, portable signs, rubbish, oil cans, tires, discarded motor vehicle parts and components, unlicensed or dismantled automobiles, trucks, tractors, trailers or accessories thereof.

(f) Other than simple adjustments made in conjunction with the sale of gasoline, no repair work may be conducted outside of a structure.

(g) All class-one liquids shall be stored in underground tanks with adequate fire and explosion precautions observed in their sale and handling.

(h) Each service station, whether or not self-service, shall have a qualified attendant on duty at all times that it is open to the public.

(i) Self-service stations shall provide adequate fire-protection systems.

(2) Discontinuance. In the event that a gasoline service facility is abandoned, as determined by the Town Board, the owner or lessee shall remove all tanks, pumps, signs

and lighting poles from the premises pursuant to New York State Department of Environmental Conservation regulations. ~~In lieu of removing the tanks, the tanks may be filled with water. Within two years after abandonment, if the structures thereon have not been placed in another commercial use, they shall be removed and the property shall be graded, seeded and properly maintained.~~

~~B. Junkyards, automobile graveyards and disassembly plants.~~ Junkyards, automobile graveyards and disassembly plants shall be enclosed within a masonry wall or fence with ~~screen planting~~ privacy screening at least six feet high. Where the area of land abuts a residential district, the fence or wall shall be at least 50 feet from the boundary line separating the districts.

C. Natural production use.

(1) For all natural production use special permit applications, the Board must give particular consideration to the following factors:

(a) Soil erosion by water and wind.

(b) Drainage.

(c) Soil fertility.

(d) Lateral support slopes and grades of abutting street and land.

(e) Land values and uses.

(f) Such other factors as may be of importance to the proper development of the Town of Lysander.

(2) Before a permit for such use is issued, the Board of Appeals ~~Board of Appeals~~ ~~Planning Board~~ shall find that such excavation or quarrying will not endanger the stability of adjacent land nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic, congestion or other condition. The Board may specify any reasonable requirements to safeguard the public health, safety and welfare in granting the permit. Hours of operation shall be specified by the ~~Board of Appeals~~ ~~Planning Board~~ for operations producing noise which carries to residential areas. No such noise-producing operations shall be permitted to operate before 8:00 a.m. prevailing time or after 7:00 p.m. prevailing time ~~if the business is located within~~ ~~500 feet of a residential area~~ .

(3) No excavation, for purposes other than for the construction of a building or of a structure for which a permit has been issued or for the construction of a driveway, sidewalk or similar facility, shall be commenced or continued except in conformity with the provisions of this chapter, except that nothing in this chapter shall require a person to obtain a permit for or prevent a person from removing topsoil or other earth products

from one part of his premises to another part of the same premises when such removal is necessary as an accessory use or is made for the purpose of farming or improving said property. Nothing in this chapter shall apply to the operation or leasing of gravel pits or excavations by the Town of Lysander for the provision of materials for the construction or maintaining of roads or highways within the town boundaries or for the betterment of the town.

(4) The following requirements shall be specified in whole or in part by the Zoning Board of Appeals ~~Plannign~~ [Planning Board](#) in granting the permit and shall be fulfilled by the applicant prior to, during the course of or following the actual period of excavation or quarry working:

(a) The operation of the excavation or quarry shall be conducted in a manner as to obviate dust and noise, providing such treatment as may be deemed necessary by the Board of Appeals ~~Planning Board~~. All access shall be provided with a dustless surface not less than 22 feet wide from the connection to a public street to a point within 100 feet of the loading point, and such road shall be properly maintained by the operator during the life of the operation.

(b) The slope of the material in the excavation or quarry shall not exceed the normal angle of repose of such material and the plane of such angle of repose, or the face of any quarry walls or other excavation in rock shall not come nearer than 40 feet to any property line or nearer than 80 feet to any highway line.

(c) In the case of an open excavation or a quarry or other excavation in rock, there shall be a substantial and acceptable fence, with suitable gates, completely surrounding said quarry or excavation at a distance of 50 feet or more from the face of said quarry or excavation walls.

(d) No excavation shall be made to a depth which will allow a pool of water to accumulate, except that permitted pit excavation operations where water is essential to the preparation of a reservoir may be maintained when adequately fenced so as to secure against trespass. Water used in washing operations shall not be discharged into a stream or natural drainage channel unless all suspended materials have been removed by the use of settling basins or percolation beds.

(5) The applicant shall file with the Board [of Appeals](#) a statement of the proposed work, together with a plan prepared by a licensed engineer or land surveyor, showing the three-dimensional extent of the proposed work through a plot plan showing existing grades and contours and the grades and contours after the operation has been completed. The plan shall be drawn to scale and shall show the location of streets or roads adjoining the premises, the names of adjacent property owners, the location of the premises and dimensions of that portion of the premises upon which the excavation is to be made, the location, size and use of any existing proposed structures and cross sections of the property at intervals of 50 feet showing existing and proposed elevations of the premises as compared to the elevation of any abutting streets or roads. Recontouring and

backfilling is required where necessary to return the area to its original contours or to the grades indicated by the plot plan when required by the Board. The operator shall set aside the top 10 inches of arable soil on the premises and, when the premises have been returned to the grades indicated on the plot plan, shall respread the soil over the area to its original depth of 10 inches and shall reseed and landscape the area.

(6) Before the issuance of a permit by the Zoning Board of Appeals ~~Planning Board~~ for quarries or excavations, the applicant must have executed an agreement with the Town Board of the Town of Lysander whereby the applicant contracts to restore the premises to the conditions approved and established in accordance with the provisions of this chapter. The applicant shall execute a bond or deposit cash with the Town Clerk in an amount sufficient in the opinion of the Zoning Board of Appeals ~~Planning Board~~ to secure the performance of said contract. The amount of bond may be reduced and/or portions of the cash returned to the applicant from time to time when, in the opinion of the Board, the lower amount will be sufficient to accomplish its purposes. In the event that the applicant who executed the contract does not fulfill his agreement, such bond or cash deposit shall be a surety and condition for the faithful performance of this chapter, and, upon default, such bond or cash deposit shall be forfeited to the Town of Lysander, and the town shall proceed to restore the premises in the manner prescribed, either with its own forces or by contract, after due notice to the applicant and, if a cash deposit was not used, to his surety company and, upon their failure to comply with the agreement, to charge the costs to the surety company. The bond shall continue in full force and effect until a certificate of compliance shall have been issued by the Board of Appeals ~~Planning Board~~ to the effect that all the provisions of the applicant's agreement with the Town Board have been complied with.

(7) Permits for the operation of quarries or excavations shall expire by limitation one year from the date of issuance. All operations established prior to the effective date of this chapter may continue only if the owner, lessee or operator thereof complies within 90 days with the provisions of this chapter.

D. Kennels, dog spas, dog day care and veterinary establishments which harbor or board animals with access to outdoors. ~~The lot area~~ shall have be a minimum of five acres lot size (talk to codes office). ~~Facilites which do not permit access to the outdoors shall have a minimum lot size of three acres unless allowed by another section of this code.~~ There shall be front, side and rear yards of at least 200 feet unoccupied by structures, fences or runs.

E. Country store.

[Added 3-7-2002 by L.L. No. 2-2002]

(1) Lot size shall be a minimum of five acres.

(2) Building size and the size of indoor retail areas shall be appropriate to the size of the owner's farm (???) and the type of agricultural products produced by the owner,

not to exceed that required to effectively market the owner's farm products directly to consumers. In no case shall the indoor retail area exceed 5,000 square feet.

(3) Indoor restaurant facilities (where allowed) shall be considered part of the total retail area and shall not exceed 10% of the total indoor retail area.

(4) If indoor restaurant facilities are part of a country store, public restrooms shall be provided.

(5) With the exception of minimum lot size (five acres), dimensional requirements for nonresidential uses and structures for the appropriate district shall apply.

~~(6) Country stores operated on a twelve-month basis shall comply with the New York State Building Code (SHOULDN'T EVERYONE COMPLY WITH THIS?).~~

F. ~~New and Re~~reconstructed structures in the Flowage Easement District.
[Added 9-9-2004 by L.L. No. 5-2004]

(1) The structure must be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Garages must include two overhead doors located on opposite sides of the structure to facilitate the flow of floodwaters.

(3) Construction materials and utility equipment that are resistant to flood damage must be used.

(4) Construction methods and practices that will minimize flood damage must be employed.

(5) All electrical equipment must be located and secured at least two feet above the elevation of a one-hundred-year flood event.

(6) Water supply systems and/or sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems, and discharges from the systems must be located so as to avoid impairment of them or contamination from them during flooding. [Sanitary sewage systems shall be approved by the Onondaga County Health Department.](#)

ARTICLE XIX Swimming Pools (§ 139-46 - § 139-50)

§ 139-46 Private pools permitted. ~~OZZIE TO REVIEW~~

Private [residential](#) swimming pools shall be permitted in any district subject to the following requirements and upon the issuance of a permit therefor by the Codes Enforcement Officer.

§ 139-47 Fencing requirements.

A. All swimming pools now existing or hereafter constructed, installed, established or maintained shall be completed and continuously surrounded by a permanent, durable wall, fence or other substantial structure which shall be not less than 48 inches (~~STILL~~ ~~GOOD?~~) in height above grade and which shall be so constructed as to have no opening, mesh, hole or gap larger than 4 1/2 inches in any dimension except for doors and gates; provided, however, that if a picket-type fence is erected or maintained, the horizontal dimension of any gap or opening shall not exceed 4 1/2 inches. So-called "natural" or "living" fences or barriers consisting of live plantings shall not constitute compliance with fencing requirements of this section. No fence or wall of any kind or material shall be constructed or maintained which shall contain projections of any kind at any point on the outer surface of the fence or wall. A dwelling house or accessory in conjunction with any of the above-described enclosures shall conform to the specifications required above as to height and dimensions of openings, mesh, holes or gaps in the case of fences, and all gates and doors shall be equipped with latchable and lockable devices for keeping the gate or door securely closed at all times when not in actual use. Gates and doors shall be locked when the pool is not in use or is unguarded or unattended.

B. A perimeter of at least four feet around all edges of an in-ground pool shall be maintained between the pool edges and the fence or wall erected around the pool.

§ 139-48 Additional requirements.

A. All pool illumination shall be so directed as to cast no direct light upon adjoining properties.

B. No overhead electric wires or lines shall be permitted within 15 feet of the pool enclosure. All pools shall be grounded and conform to generally accepted and approved Electrical Underwriters Laboratory Standards.

C. Pool wastewater shall not be discharged into sanitary sewers or permitted to flow over or into a neighboring property or street.

D. Swimming pools shall not be permitted in front yards.

~~E. Upon abandonment of a swimming pool, the owner shall remove any depression and return the surface of the ground to its original grade and former condition. The Codes Enforcement Officer shall be notified, in writing, of all such abandonment.~~
Upon abandonment of an in-ground pool, the owner shall fill in any depression and return the surface of the ground to its former grade and condition. Abandoned or unusable above ground pools shall be removed entirely from the premises.

§ 139-49 Procedure for obtaining permit.

A. A written application shall be submitted to the Codes Enforcement Officer for a building permit accompanied by payment of a building permit fee as set by the Town Board.

B. Said application shall include a location survey or map showing the location of the proposed pool and fence or wall with reference to side and rear lot lines; water, sewer, septic, gas and electric lines; and existing buildings. The application shall describe the proposed fence showing the location of gates and doors and showing the manner and method of wastewater disposal.

C. The Codes Enforcement Officer may require the submission of such additional information as may be necessary to determine compliance with this Article and this chapter.

D. No permit shall be issued for any proposed swimming pool not conforming to the requirements of this Article and chapter.

E. No excavation, construction, assembly or placement of any swimming pool shall be commenced until a building permit for the same has been issued by the Codes Enforcement Officer.

§ 139-50 Compliance required.

No swimming pool shall be erected, constructed, established, installed or maintained in the Town of Lysander outside the Village of Baldwinsville except in compliance with the provisions of this Article and chapter.

Editor's Note: See also Appendix A: New York State Regulations on Swimming Pool Enclosures, at the end of this chapter.

ARTICLE XX Supplemental Regulations (§ 139-51 - § 139-59.1)

(Add article X A-D Industrial District)

§ 139-51 Parking.

A. Off-street parking requirements. For each structure hereafter constructed, reconstructed or altered, the following parking spaces shall be provided and maintained, ~~(or at the discretion of the Planning Board held in reserve for future use)~~ on the same lot with the structure except as set forth in Subsection C of this section:

Use	Number of Parking Spaces
Single- and 2-family dwelling	2 for each dwelling unit
Multiple-family dwelling	2 for each dwelling unit
Hotels, motels and tourist homes	1 for each guest bedroom, plus spaces required by this section for staff on-site restaurants, banquet rooms and/or meeting rooms.

Churches, auditoriums, theaters, funeral homes and other places of public assembly	1 for each 4 seats at maximum capacity
Offices	1 for each 200 300 square feet of gross floor area
Stores	1 for each 300 400 square feet of gross floor area
Shopping centers	1 for each 32 00 square feet of gross floor area
Industrial or manufacturing	1 for each 500 square feet of gross floor area.
Warehousing	1 for each 24 ,000 square feet of gross floor area
Restaurants	1 for each 60 square feet of gross floor area
Bowling alleys	6 for each alley
Other commercial enterprises	1 for each 300 square feet of gross floor area
Institutions, hospitals, nursing homes	1 for each 3 beds
Accessory uses	1 for each 250 square feet of gross floor area, plus 2 spaces per dwelling unit
Schools	1 for each 100 square feet of gross floor area
Motor vehicle service station and public garages	3 per bay, minimum of 5
Farm stand and country store [Added 3-7-2002 by L.L. No. 2-2002]	1 for each 300 square feet of indoor retail area

B. Loading space requirements. For each structure hereafter constructed, reconstructed or altered, loading spaces will be provided as indicated:

Use	Number of Parking Spaces
Storage and shopping centers	1 for each 5,000 square feet
Funeral homes	2 per establishment
Warehousing, industrial or manufacturing	1 for each 10,000 square feet of gross floor area

C. Off-site parking areas. Up to 50% of the parking spaces required for a structure in Subsection A of this section may be otherwise located upon the special permit and approval of the ~~Board of Appeals~~ **Planning Board** as provided in Article XVIII and upon findings that:

- (1) It is impractical to provide parking on the same lot with the structure.
- (2) The required space is fully provided in a permanent and accessible manner.
- (3) The off-site parking area is within 500 feet of the site of the structure and within the same or a less restricted district.

D. Parking in Residential Area. In any Residential District, the following regulations shall apply:

- (1) Commercial Machinery or heavy equipment, motor homes, campers, boats, trailers and other recreational vehicles shall be parked or stored in a side or rear yard, no closer than five (5) feet from the side or rear property line.
- ~~(1)(2)~~ Exceptions to the above requirement may be granted by the Codes Enforcement Officer upon written request and extenuating circumstances found by the Code Enforcement Officer. ~~Business vehicles, boats and trailers in residential districts. No commercial motor vehicle, machinery or equipment shall be parked or stored out of doors in residential districts except in the side or rear yard and no closer than five feet from the side or rear property lines.~~

§ 139-52 Signs.

Editor's Note: See also § 139-4.

A. In residential and agricultural districts, no sign shall be erected or used except:

(1) A professional or announcement sign which may be illuminated on one or two faces (~~no internal illumination~~) but shall not be flashing, revolving, animated or otherwise in motion nor more than two square feet in area on each face.

(2) A nonilluminated temporary ~~real estate advertising~~ sign, not more than 12 square feet in area, for the sale or rental of the property upon which it is located; and on a corner lot, two such signs, one facing each street.

(3) A nonilluminated advertising sign, not more than 32 square feet in area, for the sale of products grown or produced on the premises; and on a corner lot, two such signs, one facing each street.

(4) Signs appropriate to a public or quasi-public building or necessary to legal process.

(5) Identification signs for residential subdivisions not exceeding 32 square feet when approved by the Planning Board as a part of subdivision approval or otherwise approved by the Zoning Board of Appeals.

B. In all other districts, no sign shall be erected or used except:

(1) Those permitted in residential and agricultural districts.

(2) Not more than three signs which may be illuminated on one or two faces (~~no internal illumination~~) but shall not be flashing, revolving, animated or otherwise in

motion having a total area not greater than 8% of the area of the building facade facing the street and in no instance greater than 75 square feet. These signs shall be limited to advertising a business conducted on the premises.

(3) Advertising or display signs for shopping centers designed in accordance with an integrated sign plan approved by the Board of Appeals pursuant to Articles XVII and XVIII.

C. General regulations. The following regulations shall apply to all signs:

(1) No sign in any district may extend over a sidewalk or other public way.

(2) Except in Agricultural Districts, no sign in any district, unless attached to a building, shall be located nearer to a street line than 25 feet nor, except in business or industrial districts, nearer to a side line than 10 feet.

(3) Building permits shall be required for all signs 10 square feet in area or larger, which shall be regarded as structures within the meaning of this chapter.

(4) Advertising display upon any structure shall be regarded as a sign subject to this chapter.

(5) No sign attached to a building in any district shall project above the height of the wall upon which it is attached. No freestanding signs shall be higher than 25 feet above grade.

(6) No illuminated sign or outdoor illumination shall be erected or used so that light will directly reflect toward residences on adjoining lots, toward residential districts within 1,000 feet or toward a highway so as to create a traffic hazard.

(7) All accessory advertising devices of commercial enterprises other than signs permitted by the above regulations such as, but not limited to, bunting, pennants, pinwheels or streamers are prohibited.

~~(8) All signs which do not conform to the regulations of this chapter shall be brought into conformity or removed by January, 2000.~~

(89) In no instance shall signs be permitted within 660 feet of the right-of-way of a controlled access highway except for those signs which advertise a business conducted on the premises, signs placed on properties for sale or rent and signs incident to legal process and necessary to the public welfare.

§ 139-53 Height limitation exceptions.

The height limitations of this chapter shall not apply to:

A. Churches, schools, hospitals, water supply towers and other public and quasi-public buildings, provided that for each foot by which the height permitted in the district is exceeded, the side, front and rear yards required in the district shall be each increased an additional foot.

B. Farm structures, church spires, belfries, cupolas, domes, ~~radio-communication~~ towers, monuments, television antennas, observation towers, flagpoles, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof levels. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

§ 139-54 Nonconforming uses.

A. All lawful structures and uses not conforming to the regulations of the district in which they are located at the time of the ~~effective-1974~~ date of ~~this~~ the original adoption of this chapter or amendments thereto shall be known and regarded as "legal nonconforming."

B. A legal nonconforming structure or use may be continued subsequent to adoption of this chapter, provided that no such 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 ~~(a structure-??) or land that~~ was occupied at the effective date of adoption of this chapter.

Editors Note the following was removed in the 2015 adoption of this chapter:
(Nonconforming junkyards and automobile wrecking yards shall amortize their operations within 18 months of the ~~1974 effective~~ date of the original adoption of this chapter and on or before that date shall cease to operate as a junkyard or automobile wrecking yard-????). All junk, materials, scrap cars or similar items shall be removed from the property on or before the above date or the legal nonconformity shall be deemed to have continued in violation of this provision.)

C. Any legal nonconforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use at the time of adoption of this chapter in 1974. A legal nonconforming use may be changed to a use of the same classification, and, when changed to a more restrictive classification, such use thereafter shall not be changed to a less restrictive classification.

D. To avoid undue hardship, nothing herein contained shall require any change in plans, construction or designated use of a structure for which a building permit was issued more than 30 days prior to the effective date of this chapter and the construction of which is begun and diligently prosecuted within three months after the enactment hereof and which building shall be completed within one year of the effective date of this chapter.

E. On any structure devoted in whole or in part to any legal nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls,

fixtures, wiring or plumbing, provided that the cubical content of the structure, as it existed at the time of passage of this chapter, shall not be increased.

F. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any Town official charged with protecting the public safety upon order of such official.

G. Reversion of legal nonconforming structures and uses. A legal nonconforming structure 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 legal nonconforming structure or use has once been changed to a conforming use.

(2) A legal nonconforming use of land ceases for any reason for a period of more than 90 days.

(3) A legal nonconforming use of a structure has ceased for a consecutive period of six months or for 18 months during any three-year period.???

(4) A legal nonconforming structure is destroyed by any means to the extent of 50% or more of either its value or its area.

H. District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from a district of one classification to a district of a different classification, the foregoing provisions shall apply to legal nonconforming uses created by such transfer.

§ 139-55 Fire escapes.

Nothing herein contained shall prevent the projection of an open fireproof escape into a rear or side yard for a distance not to exceed eight feet.

§ 139-56 Minimum floor area.

A. For all one-story single-family dwellings, the minimum first-floor area used for living purposes shall be 1,100 square feet ???, except that efficiency apartments may have a minimum floor area used for living purposes of 600 square feet, and one-bedroom apartments may have a minimum floor area used for living purposes of 750 square feet. In no instance, however, may such efficiency and one-bedroom apartments make up more than 50% of the total units in a multiple-family project either in total or at each phase of construction.

B. For all one-and-one-half- to two-story single-family dwellings, the minimum first-floor area used for living purposes shall be 768 square feet. For all two-family and multiple-family dwellings, the minimum floor area used for living purposes in each dwelling unit shall be 900 square feet.

§ 139-57 Park buffer strip.

The applicant shall add 50 feet to rear and side setbacks where property adjoins a public park. ~~???~~

§ 139-58 Agricultural Taxing Districts.

An eighty-thousand-square-foot minimum lot size shall apply for any use in an Agricultural Taxing District. ~~????~~

§ 139-59 Corner lots.

A. In the case of a corner lot, each yard abutting a street shall have a minimum depth equal to the front yard depth of the adjacent lot on the same street or the front yard depth required for the district in which such adjacent lot is located, whichever is the lesser, and, if in a residential district, shall be unoccupied except for fences and/or other decorative or landscaping uses. Each other yard of such corner lot shall have a minimum width equal to the width of the side yard which it adjoins or the side yard width of the district in which such adjoining side yard is located, whichever is the lesser, and, if such corner lot is in a residential district, shall be unoccupied adjacent to the boundary of the adjoining yard to such minimum width except for fences and/or other decorative or landscaping uses.

~~CAN'T WE MAKE THIS SIMPLER??~~

B. On corner lots, no berm, fence, wall, hedge or other planting or structure more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street line.

§ 139-59.1 Front building line in new major residential subdivisions.

[Added 9-9-2004 by L.L. No. 4-2004]

Notwithstanding the definition of "building line, front" in § 139-4B, the Planning Board, ~~through the subdivision process~~, may, in its discretion, approve a front building line which is a greater distance from the street line than the minimum front yard setback, but only for lots fronting an internal local Town-owned streets in new major residential subdivisions.

ARTICLE XXI Major Highway Overlay Controls (§ 139-60 - § 139-60)

§ 139-60 Major highway overlay controls.

The purpose of this section is to accommodate and promote a pattern of land development that is appropriate to the current and future needs of the town's highway network. The following regulations are intended to balance proper highway functioning with the use and design of abutting properties, protecting both from the adverse effects of the other.

A. Applicability.

(1) These regulations shall apply to all lots abutting the highways listed below.

(2) These regulations shall be in addition to the lot, yard or setback requirements of the zone district regulations.

(3) In the event of conflict with other sections of this chapter, then the greater or more restrictive requirement shall apply.

B. Exceptions.

(1) New lots may be established for one- or two-family dwellings with less lot width than required by this section if the proposed lot(s) provides for vehicular access (driveway) to a local street or nondesignated collector and no access is provided to the designated arterial or collector.

(2) This section shall not apply to any lot within the Neighborhood Service District since those properties are characterized by older development patterns which preclude compliance with these requirements.

C. Arterials.

(1) The following [State](#) highways are hereby designated as arterials:

(a) New York State Route 31.

(b) New York State Route 48.

(c) New York State Route 370.

(d) [New York State Route 631](#).

(e) [New York State Route 690](#)

(2) Principal and accessory structure dimensional requirements.

(a) Minimum setback shall be 140 feet from the center line of the highway right-of-way or that of adjoining houses.

(b) Minimum lot width shall be 50 feet additional to the respective zone district requirement.

(c) Minimum lot depth shall increase proportionate to lot width increase.

D. Collectors.

(1) The following highways are hereby designated as collectors:

- (a) River Road.
- (b) Hayes Road.
- (c) Hicks Road.
- (d) Pendergast Road.
- (e) Lamson Road.
- (f) Sixty Road.
- (g) Smokey Hollow Road.
- (h) Hencle Boulevard.
- (i) Willett Parkway.
- (j) Drakes Landing Road.
- (k) West Entry Road.
- (l) Church Road.
- (m) East Mud Lake Road.
- (n) Fenner Road.
- (o) Plainville Road.

(2) Principal and accessory structure dimensional requirements.

(a) Minimum setback shall be 100 feet from the center line of the highway right-of-way or that of adjoining houses.

(b) Minimum lot width shall be 50 feet additional to the respective district requirements.

(c) Minimum lot depth shall increase proportionate to lot width increase.

ARTICLE XXII Riverfront Development Overlay Controls (§ 139-61 - § 139-61)

§ 139-61 Riverfront development overlay controls.

The purpose of this section is to promote patterns of shoreline development that are sensitive to the environmental and hydrological characteristics of the river system and to enhance its recreational and aesthetic attributes. These controls address the design and manner of use of a shoreline site for the uses authorized by the applicable zone district regulations and furthermore are intended to augment, when necessary, the controls of other permit processes designed to protect specific natural features.

A. Applicability.

(1) The bodies of water covered by this section shall collectively be referred to as the "river system." The river system shall include those portions of the following water bodies wholly or partially within the Town of Lysander: Cross Lake, New York State Barge Canal, ~~Erie Canal~~, Seneca River and Oswego River.

(2) Only those properties, regardless of size, which abut or have frontage upon the river system or are adjacent to publicly owned shoreline shall be subject to this section.

(3) This section establishes dimensional site design and procedural controls in addition to the requirements of the applicable zone district regulations. In the event of conflict with other sections of this code, then the more restrictive requirement shall apply.

(4) ~~Under no circumstances should a structure be erected within a designated New York State Flowage easement without the appropriate agencies permit (s).~~

B. Dimensional requirements. The following measurements, unless otherwise specified, are to be calculated along or from the normal pool elevation. NOTE: See zone district regulations for other dimensional requirements.

(1) Lots abutting ~~either~~ the river system ~~or a publicly owned shoreline less than 50 feet in depth~~ shall meet the following requirements:

(a) Lot width (river frontage) minimum: equal to front lot width.

(b) Principal structure setback, minimum: 100 feet ~~from river system~~.

(c) Accessory structure setback, minimum: 75 feet ~~from river system~~.

~~(2) Lots abutting publicly owned shoreline 50 feet or greater in depth shall meet the following requirements:~~

~~(a) Lot width (river frontage), minimum: 100 feet.~~

~~(b) Principal structure setback, minimum: 50 feet.~~

~~——(c) Accessory structure setback (excluding shoreline structures), minimum: 25 feet.~~

~~——(32) Shoreline structures (docks, decks, boat launches, boat houses) shall meet the following requirements:~~

~~(a) Maximum structure width (linear coverage of lot river frontage): 25 feet or 10% of front (whichever is less).~~

~~(b) Maximum structure height: 25 feet.~~

~~(c) Maximum structure depth (measured perpendicular to shoreline): 25 feet.~~

~~(d) Maximum cumulative area occupied by shoreline structures: 1,000 square feet.~~

~~(34) For lots existing at the effective 1991 date of this chapter and owned or under contract of sale to persons other than those owning any adjacent lot, the following special setback provisions shall apply:~~

~~(a) Principal or accessory structure setback on a lot of 80,000 square feet or less: 75 feet from river system.~~

~~(b) Principal or accessory structure setback on a lot of 40,000 square feet or less: 50 feet from river system.~~

~~(c) Principal or accessory structure setback on a lot of 20,000 square feet or less: 20 feet from river system.~~

C. Performance guidelines.

(1) Shoreline buffer strip. A shoreline buffer strip shall be measured from the normal pool elevation.

(a) A natural vegetative buffer shall be maintained along the river frontage of each lot for a minimum depth of 50 feet. Physical disturbance of this area should be kept to a minimum to prevent erosion and riverbank destabilization. Following any approved activity which disturbs this area, a vegetative cover or permanent erosion control device, e.j.terracing, shall be immediately erected or planted or a temporary erosion control system shall be established until such time that planting is possible or final erection is completed.

(b) Plant material should include types of vegetation typical and indigenous to the river shoreline. Steeply sloped areas should be planted with shrubs and

trees that promote slope stabilization. Grassed areas should be kept to a minimum and on generally level grades.

(c) There shall be no structure or activities established within this shoreline buffer except for permitted shoreline structures, agriculture and marinas.

(2) Agriculture. Soil shall not be tilled within 25 feet of the normal pool elevation and never within the flood plain.

(3) Septic systems. Individual subsurface waste disposal systems, including drainage pipes or leach field, shall not be closer than 500 feet to the normal pool elevation flood plain.

(4) Outdoor storage. Within the shoreline buffer strip, the storage of boats, trailers and similar water use equipment shall be limited to shoreline structures or enclosed within an accessory structure.

D. Waiver of shoreline requirements (Town Law § 278 authorization). The controlled site, dimensional and shoreline buffer requirements of this section may be waived for residential uses by the Planning Board during the subdivision review process pursuant to New York State Town Law § 278 and upon finding the following:

(1) The proposed lots are designed and arranged so that there will be minimal disturbance upon the shoreline.

(2) The shoreline is protected and maintained in its natural state and not intruded upon by docks, launches or similar structures.

(3) The proposed subdivision complies in all other respects with floodplains, wetlands and water quality protection measures administered by other agencies.

(4) The proposed lots comply with the other zone district regulations of this code or any separate Town Law § 278 authorization to modify those requirements.

ARTICLE XXIII Administration (§ 139-62 - § 139-65)

§ 139-62 Codes Enforcement Officer; building permits; certificate of occupancy.

A. Codes Enforcement Officer. The Town Board shall appoint a Codes Enforcement Officer who shall be charged with the general and executive administration of this chapter. The Town Board shall fix the salary or remuneration of such officer and shall provide for the payment thereof.

B. Building permits.

(1) No building or structure shall be excavated for, erected, added to or structurally altered until a permit therefor has been issued by the Codes Enforcement Officer. Except upon a written order of the Board of Appeals, no such building permit nor a certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof would not conform to the provisions of this chapter.

(2) There shall be submitted with all applications for building permits three copies of a layout or plot showing the actual dimensions of the lot to be built upon, the actual size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.

(3) One copy of such layout or plot shall be returned when approved by the Codes Enforcement Officer, together with such building permit, to the applicant upon payment of a fee as set by the Town Board.

(4) A building permit shall be effective to authorize the commencement of work in accordance with the application, plans and other information upon which it is based for a period of 12 months after the date of issuance.

C. Certificate of occupancy.

(1) After the effective date of this chapter, no land or buildings shall be changed in use and no buildings thereafter erected, altered, moved or extended shall be used until a certificate of occupancy shall have been issued by the Codes Enforcement Officer stating that the building or proposed use thereof is valid under the provisions of this chapter.

(2) All nonconforming uses shall be required to register with the Codes Enforcement Officer a layout or plot plan of such use within the first six months following the date when said use shall become nonconforming under the provisions of this chapter.

(3) All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificates shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this chapter.

(4) The Codes Enforcement Officer shall maintain a record of all certificates of occupancy, and copies shall be furnished, upon request, to any person having a propriety or tenancy interest in the building affected.

(5) Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued for a period not to exceed six months. Temporary certificates of occupancy may be renewed for additional six-month periods; such renewals shall not exceed a total of three in number. Such temporary certificates of

occupancy shall only be issued in case of emergency or hardship and only for the following purposes: temporary use of a building as a dwelling while a permanent dwelling is under construction or alteration or the use of an uncompleted dwelling under construction. A building shall be considered "under construction" and "uncompleted" until there is a complete exterior of a story other than a basement.

§ 139-63 Board of Appeals.

A. Creation, appointment and organization. A Board of Appeals, as previously created by the 1974 Zoning Ordinance of the Town of Lysander, is hereby continued. Said Board shall consist of five permanent members and two alternate members, appointed by the Town Board, who shall also designate the Chairman. The terms of office of said permanent members of Board of Appeals shall be five years. Of the alternate members of the Board first appointed, one shall be appointed for a term of one year, and one person shall be appointed for a term of two years, and all successors shall be appointed for a term of two years. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board, which shall appoint an alternate member with the longest tenure for the unexpired term or, if the alternate members have the same tenure, the appointment of an alternate members shall be at the discretion of the Town Board. The Board of Appeals shall prescribe rules for the conducting of its affairs, including rules relating to notice of neighbors regarding area variance requests.

B. Substitutions/alternates. The Chairperson of the Zoning Board of Appeals may designate an alternate to substitute for a member when such member is unavailable or unable to participate on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the Zoning Board meeting at which the substitution is made.

BC. Powers and duties. The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

(1) Interpretation. Upon appeal from a decision by the Codes Enforcement Officer, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Special use permits. To approve and grant permits for specific structures, conditions and/or uses whenever approval by the Board of Appeals is required by this chapter, subject to the findings set forth in Article XVIII, § 139-44, and to the special use standards of § 139-45.

(3) Variances. To vary or adapt the strict application of any of the requirements of this chapter in accordance with the applicable provisions of the Town Law.

§ 139-64 Procedures for appeals and applications.

A. The Board of Appeals shall act in strict accordance with the procedures specified by law and by this chapter. All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board of Appeals.

B. Every appeal or application shall refer to the specific provision of the zoning law involved and shall exactly set forth the interpretation that is claimed, the use for which the special use permit is sought or the details of the variance that is applied for and the grounds on which it is claimed, as the case may be. The Board of Appeals shall fix a reasonable time for the public hearing required for every appeal or application and shall give public notice thereof by the publication in the official paper of a notice of such public hearing at least 10 days prior to the date thereof and shall, at least 10 days before such public hearing, mail notices thereof to the parties involved.

C. Except for area variance applications, at least 10 days before the date of the public hearing required by law on an application or appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board of the Town of Lysander a copy of said application or appeal, together with a copy of the notice of the aforesaid public hearing, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing.

D. In addition to the notice required by statute, notice shall be given of any application made under the provisions of this Article by mailing, at least five days prior to the hearing upon such application, written notice of the substance of the application and the date, time and place of the hearing to all the owners of land which immediately adjoins the premises for which said application is made or which abuts the same street or streets as said premises and is within a distance of 300 feet, exclusive of street rights-of-way, of the exterior boundaries of the said premises, as the names and addresses of said owners appear in the latest completed assessment roll of the town. Failure to comply with this section shall not invalidate any action taken by the Board of Appeals.

E. Every decision of the Board of Appeals shall be made by resolution, each of which shall contain a full record of the findings of the board in the particular case. Each such resolution shall be filed in the office of the Town Clerk. The Board of Appeals shall notify the Town Board and the Planning Board of the Town of Lysander of each special permit use and each variance granted under the provisions of this chapter.

§ 139-65 Penalties for offenses.

[Amended 6-4-1998 by L.L. No. 4-1998]

A. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of an offense punishable by a fine not to exceed \$3,000, except that:

(1) Where the person, firm or corporation in violation is found to have violated any of the provisions of this chapter within the preceding five years, the penalty shall be a fine of not less than \$2,000 nor more than \$5,000 or imprisonment for a maximum of 15 days, or both such fine and imprisonment.

(2) Where the person, firm or corporation is found to have violated any of the provisions of this chapter on two or more occasions within the preceding five years, the penalty shall be a fine of not less than \$4,000 nor more than \$1,000 or imprisonment for a maximum of 30 days, or both such fine and imprisonment.

B. If any violation continues for a duration of more than seven continuous days, each week, or any part thereof, thereafter of continued violation shall constitute a separate additional violation.

§ 139--65-a Notwithstanding anything contained in this Article XXIII to the contrary, in the event that there is a conflict between this Article XXIII and Chapter 115 of the Code of the Town of Lysander (Building and Energy Code Administration and Enforcement), Chapter 115 shall supersede and be preeminent over this Article..

ARTICLE XXIV Amendments (§ 139-66 - § 139-66)

§ 139-66 Procedure for amendments.-

A. Amendments to this chapter may be made by the Town Board upon its own motion or by petition or upon recommendation of the Planning Board after public notice and public hearing. At least 10 days' notice of the time and place of such hearing shall be published in a newspaper designated by the Town Board and having general circulation within the town.

B. In addition to the notice required by statute, the Town Clerk shall give notice of any application made under the provisions of this Article by mailing, at least five days prior to the hearing upon such application, written notice of the substance of the application and the date, time and place of the hearing to all the owners of land which immediately adjoins the premises for which said application is made or which abuts the same street or streets as said premises and is within a distance of 300 feet, exclusive of street rights-of-way, of the exterior boundaries of said premises, as the names and addresses of said owners appear in the latest completed assessment roll of the town. Failure to comply with this section shall not invalidate any action taken by the Town Board.

C. At the time of presentation of any petition of the chapter, there shall be paid to the Town Clerk the sum of \$500 -to defray the various costs and expenses of such amendment proceedings, and no petition shall be accepted without prepayment of such fee.

D. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before such public hearing.

ARTICLE XXV Farm Worker Housing (§ 139-67 - § 139-67)

[Added 3-7-2002 by L.L. No. 2-2002]

§ 139-67 Regulations for farm worker housing.

A. Farm worker housing, as defined in Article II, § 139-4B, is limited to those portions of the Town of Lysander located in state-certified agricultural districts.

B. Controlled site review (see Article XVII) by the Town of Lysander Planning Board shall be required if two or more housing units are to be constructed on the same farm.

C. The following standards shall apply.

- | (1) Mobile homes utilized as farm worker housing:
 - | (a) Shall be secured to a permanent foundation or as required by the New York State Uniform Fire Prevention and Building Code, whichever is more restrictive;
 - | (b) Shall be skirted unless installed upon a concrete block or other wall-type foundation;
 - | (c) Shall exhibit all labels, data plates and certificates required by New York State and federal laws and regulations or be accompanied by a written inspection report by a New York State licensed architect or engineer or other inspector satisfactory to the Codes Enforcement Officer as required by 9 NYCRR 1231.5(e); and
 - | (d) Shall be accompanied by a written inspection report by a New York State licensed architect or engineer or other inspector satisfactory to the Codes Enforcement Officer certifying that the unit is structurally sound and free of heating system, electrical system, plumbing system and fire or other hazards if the unit has been damaged or altered such that the Codes Enforcement Officer has reasonable grounds to believe that the structural integrity or safety of the unit may have been compromised.
- | (2) Minimum size of a farm worker housing unit shall be 320 square feet.
- | (3) Housing units shall be separated from each other and any other structures by at least 25 feet.
- | (4) A minimum of 6,000 square feet of land shall be allotted per housing unit.

(5) Setbacks from roads and property lines for any unit shall be the same as required for primary structures in the appropriate zoning district (Agriculture or AR-40). Major highway overlay controls (Article XXI) shall apply.

(6) Farm worker housing must demonstrate compliance with New York State Department of Health Part 15 requirements and any other applicable county, state and federal regulations. Documentation of current compliance must be kept on file with the Codes Enforcement Officer.

(7) Farm worker housing units with a floor area less than required by § 139-56 of this chapter for a single-family dwelling shall, to the extent practicable, be screened by vegetation, fencing or land form from adjacent properties and public roads and highways unless situated at least 150 feet from the nearest lot line. The Planning Board shall be authorized to waive the need for screening, in whole or in part, on a case-by-case basis, upon presentation by an applicant of proof that screening is economically or otherwise unreasonable in the particular situation.

(8) Farm worker housing shall be removed if it has not been used for such purposes for three consecutive years.

ARTICLE XXVI Stormwater Management and
Erosion and Sediment Control (§ 139-68 - § 139-71)

[Added 2-11-2008 by L.L. No. 2-2008]

§ 139-68 Findings of fact; purpose; applicability; exemptions.

A. Findings of fact. It is hereby determined that:

(1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

(2) This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;

(3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

(4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation;

(5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;

(6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;

(7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

(8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

(9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Subsection A hereof. This article seeks to meet those purposes by achieving the following objectives:

(1) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;

(2) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, or as amended or revised;

(3) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

(4) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

(5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

(6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure

that these management practices are properly maintained and eliminate threats to public safety.

C. Applicability.

(1) This article shall be applicable to all land development activities as defined in § 139-~~71~~69.

(2) The ~~municipality~~ **Town Engineer and Code Enforcement Officer** shall be designated as Stormwater Management Officers who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:

(a) Review the plans;

(b) Upon approval by the Town Board of the Town of Lysander, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or

(c) Accept the certification of a licensed professional that the plans conform to the requirements of this article.

(3) All land development activities subject to review and approval by the Code Enforcement Officer (Zoning Administrative Officer), Town Board, Planning Board or Zoning Board of Appeals of the Town of Lysander under zoning, subdivision, site plan, controlled site use, and/or special permit regulations shall be subject to review under the standards contained in this article.

(4) All land development activities not subject to review as stated in Subsection C(3) above shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this article.

D. Exemptions. The following activities are being exempt from review under this article:

(1) Agricultural activity as defined in this article.

(2) Silvicultural activity, except that landing areas and log haul roads are subject to this article.

(3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

(4) Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

(5) Any part of a subdivision if a plat for the subdivision has been approved by the Planning Board on or before the effective date of this article.

(6) Land development activities for which a building permit has been approved on or before the effective date of this article.

(7) Cemetery graves.

(8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

(9) Emergency activity immediately necessary to protect life, property or natural resources.

(10) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

(11) Landscaping and horticultural activities in connection with an existing structure.

(12) Land development activities that disturb less than an acre of land pursuant to New York State laws, rules and regulations.

§ 139-69 Stormwater control.

A. Definitions. The terms used in this Article XXVI or in documents prepared or reviewed under this Article XXVI shall have the meaning as set forth in this section:

AGRICULTURAL ACTIVITY

The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER

A person who undertakes land development activities.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY

Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Coldwater fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground resulting from precipitation

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of

this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.B. Stormwater pollution prevention plans.

(1) Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

(2) Contents of stormwater pollution prevention plans.

(a) All SWPPPs shall provide the following background information and erosion and sediment controls:

[1] Background information about the scope of the project, including location, type and size of project.

[2] Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

[3] Description of the soil(s) present at the site;

[4] Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

[5] Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

[6] Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce

pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;

[7] Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project closeout;

[8] A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

[9] Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

[10] Temporary practices that will be converted to permanent control measures;

[11] Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

[12] Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

[13] Name(s) of the receiving water(s);

[14] Delineation of SWPPP implementation responsibilities for each part of the site;

[15] Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

[16] Any existing data that describes the stormwater runoff at the site.

(b) Land development activities as defined in Subsection A of this section and meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Subsection B(2)(c) below as applicable:

[1] Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

[2] Condition B: Stormwater runoff from land development activities disturbing five or more acres.

[3] Condition C: Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(c) SWPPP requirements for Conditions A, B and C:

[1] All information in Subsection B(2)(a) of this section;

[2] Description of each postconstruction stormwater management practice;

[3] Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;

[4] Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

[5] Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;

[6] Dimensions, material specifications and installation details for each postconstruction stormwater management practice;

[7] Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;

[8] Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

[9] Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Subsection D of this section;

[10] For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.

(3) Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

(4) Contractor certification.

(a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(c) The certification statement(s) shall become part of the SWPPP for the land development activity.

(5) A copy of the SWPPP shall be retained at the site of the land development activity during construction, from the date of initiation of construction activities to the date of final stabilization.

C. Performance and design criteria for stormwater management and erosion and sediment control. All land development activities shall be subject to the following performance and design criteria:

(1) Technical standards. For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

(a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual");

(b) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

(2) Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Subsection C(1) and the SWPPP shall be prepared by a licensed professional.

(3) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

D. Maintenance, inspection and repair of stormwater facilities.

(1) Maintenance and inspection during construction.

(a) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(b) For land development activities as defined in Subsection A of this section and meeting Condition A, B or C in Subsection B(2)(b), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm

event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.

(2) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Lysander to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Lysander. ~~Nothing contained herein shall be construed to require the Town of Lysander to maintain any stormwater management facility in the Town.~~

(3) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, as a minimum, the following:

(a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

(b) Written procedures for operation and maintenance and training new maintenance personnel.

(c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Subsection C(3).

(4) Maintenance agreements. The Town of Lysander shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this article entitled "Sample Stormwater Control Facility Maintenance Agreement."

Editor's Note: Schedule B is included at the end of this chapter. The Town of Lysander, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 139-70 Administration and enforcement.

A. Construction inspection.

(1) Erosion and sediment control inspection.

(a) The Stormwater Management Officer may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least 48 hours before any of the following;

- [1] Start of construction;
- [2] Installation of sediment and erosion control measures;
- [3] Completion of site clearing;
- [4] Completion of rough grading;
- [5] Completion of final grading;
- [6] Close of the construction season;
- [7] Completion of final landscaping;
- [8] Successful establishment of landscaping in public areas.

(b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

(2) Stormwater management practice inspections. The Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(4) Submission of reports. The Stormwater Management Officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

(5) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Lysander the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection A(3).

B. Performance guarantee.

(1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Lysander in its approval of the stormwater pollution prevention plan, the Town may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Lysander as the beneficiary. The security shall be in an amount to be determined by the Town Board based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Lysander with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(3) Recordkeeping. The Town may require entities subject to this article to maintain records demonstrating compliance with this article.

C. Enforcement and penalties.

(1) Notice of violation. When the Town determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (a) The name and address of the landowner, developer or applicant;
- (b) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the land development activity into compliance with this article and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (f) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

(2) Stop-work orders. The Town may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

(3) Violations. Any land development activity that is commenced or is conducted contrary to this article, may be restrained by injunction or otherwise abated in a manner provided by law.

(4) Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$3,500 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$3,500 nor more than \$7,000 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$7,000 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of

law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(5) Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this local, law the Stormwater Management Officer may prevent the occupancy of said building or land.

(6) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

D. Fees for services. The Town may require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town or performed by a third party for the Town, including, without limitation, engineers and/or attorneys.

§ 139-71 Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article.

ARTICLE XXVII Incentive Zoning (§139-72 - §139-79)

§139-72 Purpose and Intent.

The Town Board has determined that it is appropriate to make adjustments to permissible density and area requirements for specific purposes of preserving farmland and open space as well as to promote the extension of roadways, sewers and other such amenities at a minimum cost to the residents and tax payers. It is the intent of this Article to empower the Town Board to grant incentives or bonuses to advance the vision and policies articulated in the Town of Lysander's Comprehensive Plan, and the following objectives:

- A. The preservation and enhancement of natural and cultural features.
- B. The accommodation of land uses and physical site arrangements which are not contemplated under conventional zoning, but which would further the land use conservation and development goals of the Town.
- C. The creation of usable open space and recreation lands and trails.

D. The preservation of farmland, scenic viewsheds, water resources, forests, meadows, geologic features, environmentally sensitive areas, significant plant and animal habitats, and important ecological resources.

E. The provision of a more desirable environment than what would be possible through the strict application of existing zoning regulations.

F. The promotion of the general health, safety, and welfare of the Town.

§ 139-73 Legislative Authority.

In accordance with §261-b of the Town Law of the State of New York, the Town Board of Lysander is empowered to provide for a system of zoning incentives or bonuses in exchange for specific social, economic, or cultural benefits or amenities as the Town Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in §139-72.

§ 139-74 Applicability.

The Incentive Zoning Program was developed pursuant to §261-b of the Town Law of New York State and the Town of Lysander Land Use Plan (Comprehensive Plan). Incentive Zoning areas shall be indicated as floating overlay zones on the official Town of Lysander Zoning Map and may be adjusted over time following due process through Town Law. The procedure for amending the Incentive Zoning area overlays shall be the same as for an amendment to the Town Zoning Map.

§ 139-75 Definitions.

For the purpose of this Article, the terms used are defined as follows:

COMMUNITY BENEFITS OR AMENITIES

Amenities including oOpen space which has physical, economic, social or cultural benefit to the residents of the community.

INCENTIVES OR BONUSES

Adjustments to the permissible density, area, height, use or other requirements of the Zoning code for the Town of Lysander and any amendments thereto in exchange for a specific community benefit or amenity that provides for the significant preservation of open space in a manner not otherwise allowed by the Zoning Law; these adjustments may incorporate two (2) or more non-contiguous parcels of land.

INCENTIVE ZONING

The system by which specific incentives or bonuses are granted, pursuant to §261-b of the New York State Town Law, on condition that specific social, economic, or cultural benefits or amenities are provided to the community.

§ 139-76 Benefits or Amenities.

A. The following benefits or amenities may be either on or off the site of the subject application:

1. Preservation of farmland or open space.
2. Regional Parks.
3. Utilities and appurtenances in excess of those required to mitigate proposed development impacts.
4. Preservation of cultural or historic facilities in excess of those required to mitigate proposed development impacts.
5. Other facilities or benefits to the residents of the community which are consistent with the purpose and intent of this Article as determined by the Town Board.
6. Any combination of above-listed amenities and/or cash in lieu of any amenity(s) for specific purposes identified.

B. These amenities shall be in addition to any mandated requirements pursuant to other provisions in Chapter 139, Zoning Code for the Town of Lysander.

§ 139-77 Incentives or Bonuses.

The following incentives may be granted by the Town Board to an application on a specific site:

- A. Increases in residential or non-residential unit density.
- B. Changes in use.
- C. Increases in lot coverage.
- D. Changes in setbacks or height.
- E. Increases in floor area.
- F. Reduction of required buffer area.

§ 139-78 Criteria and Procedure for Approval.

A. A pre-application conference shall be held prior to the submission of an application for incentive zoning. The purpose of a pre-application conference is to inform the applicant of applicable procedures, submission requirements, development standards and other pertinent matters before the applicant finalizes the incentive zoning proposal.

1. The pre-application conference will be coordinated through the Planning Board.

2. The applicant requesting consideration for incentive zoning is required to attend the pre-application conference.

3. Opinions presented during a pre-application conference are advisory in nature and do not represent a commitment on behalf of the Town Board or represented agency regarding the acceptability of the incentive zoning proposal.

B. An application for incentive zoning will consist of a letter of intent accompanied by the following information:

1. One concept plan showing the site developed to its fullest extent under the zoning regulations in Chapter 139 of the Town Code, and one concept plan showing the site developed in a manner that incorporates the desired incentive and amenity to be provided. These plans shall show the following information:

a. Location and extent of all proposed land uses, including development areas and open spaces, with areas shown in acres.

b. All interior streets, roads, access easements and their planned private or public ownership, as well as all points of access and egress from existing public rights-of-way.

c. An area map showing adjacent parcels; that portion of the applicant's property under consideration; all properties, zoning districts, subdivisions, streets, access, easements, watercourses, drainage facilities, buildings, structures, and other significant natural and built features within 300 feet of the applicant's property, and all uses of abutting lands.

2. A written description of the proposed amenity.

3. The cash value of the proposed amenity.

4. A narrative which:

a. Describes the benefits to be provided to the community by the proposed amenity.

b. Provides a preliminary indication that there is adequate sewer, water, transportation, waste disposal and fire-protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity may place on these facilities beyond the demand on them as if the site were developed to its fullest extent under the zoning regulations in Chapter 139 of the Town Code.

c. Explains how the amenity helps implement the vision and policies of the Comprehensive Plan, and the land use goals of the Town as supplemented by the laws and ordinances adopted by the Town Board.

d. Description of the requested incentive.

e. Completed long environmental assessment form, Part I.

5. Fifteen sets of the application shall be provided to the Town for distribution and review. The Town Board, upon receipt of an application, and as part of its review, shall refer the application to the Planning Board and to the Zoning Board of Appeals for their review and recommendations.

C. The Planning Board shall forward a written recommendation to the Town Board indicating whether or not it supports the approval of the incentive and amenity (amenities). This recommendation shall consider the following:

1. The suitability of the site(s) for the type of open space preservation, sewer, roadway or other amenities proposed, the physical characteristics of the land, and the relation of the proposed development to surrounding existing and probable future development.

2. The adequacy of major roads, utilities and other facilities and services to serve the development.

3. That the proposal is conceptually sound, is consistent with the Town Comprehensive Plan, and meets local and area wide needs.

D. The Zoning Board of Appeals shall forward a written recommendation indicating its position with respect to the application and relevant observations, issues, and/or questions.

E. The application shall be referred to the Onondaga County Planning Department for its review. The Town may also refer the application to the Town Engineer, as well as other local and county officials, representatives of federal and state agencies and consultants as deemed appropriate. These agencies may include, but are not limited to, the Onondaga Farmland Protection Board, Onondaga County Agricultural Council, the Onondaga County Department of Water Environmental Protection, the Onondaga County Department of Transportation, the New York State Department of Transportation, and the New York State Department of Environmental Conservation.

F. Once the application has been determined to be complete, a public hearing will be scheduled before the Town Board. The Town Clerk shall give notice of the hearing in the official newspaper of the Town at least ten (10) days prior to the date of the hearing.

G. All applicable requirements of the State Environmental Quality Review (“SEQR”) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal, and fire protection facilities to:

1. First, serve the remaining vacant land on the site as though it were developed to its fullest potential under the zoning regulations in effect at the time of the amenity/incentive proposal; and

2. Then, serve the on-site amenity and incentive, given the development scenario in Sub-Section G(1) above.

H. In order to approve an amenity/incentive proposal, the Town Board shall determine the requirements of SEQR have been met and the proposed amenity provides sufficient public benefit to provide the requested incentive. In order to make this determination, the Town Board may require the completion of an environmental impact statement. Thereafter, the Town Board is authorized to act on an application for approval pursuant to this Article.

§ 139-79 Cash In Lieu of Amenity or Bonus.

A. If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity or bonus. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified in these provisions. Payments shall be made by the applicant prior to the issuance of any permit, stripping of any ground cover, site grading, or any other site improvements or construction activities.

~~ARTICLE XXVII Transfer of Development
Rights (§ 139-72—§ 139-76)~~

~~[Added 10-23-2008 by L.L. No. 8-2008]~~

~~§ 139-72 Legislative intent.~~

~~The Town of Lysander has developed a transfer of development rights (TDR) program in accordance with § 261-a of the Town Law of New York State. The establishment of sending and receiving area overlays in the AR-40 Zoning District is intended to ensure a long-range growth management strategy. The Lysander TDR program is designed to maintain an economically viable agricultural presence and to preserve open space in~~

~~those areas of the Town zoned AR-40, particularly in the Cold Springs Peninsula, and associated objectives outlined in Amendment No. 1 to the Town of Lysander Land Use Plan and GEIS adopted on July 12, 2007.~~

~~§ 139-73 Compliance with Town Law and planning documents.~~

~~The TDR program was developed pursuant to § 261-a of the Town Law of New York State and the Town of Lysander Land Use Plan (Comprehensive Plan). Sending and receiving areas shall be indicated as floating overlay zones on the official Town of Lysander Zoning Map and may be adjusted over time following due process through Town Law. The procedure for amending the sending and receiving area overlays shall be the same as for an amendment to the Town Zoning Map.~~

~~§ 139-74 General procedures and restrictions.~~

~~A. Town approval. Before a transfer of development rights occurs, the Lysander Planning Board shall determine that said transfer from the sending area parcel to the proposed receiving area is consistent with the program goals and objectives. This determination shall be made as a part of the reviews by the Town Planning Board under §§ 139-75C and 139-76C.~~

~~B. Designation of sending and receiving areas. Sending and receiving areas shall be designated with specificity by the Town Board based upon the criteria in §§ 139-75A and 139-76A and upon a finding that the designation meets with the intent of the TDR program goals and objectives. Prior to the designation, a public hearing upon appropriate notice to affected property owners and the public will be held. The Town Planning Board will review the proposed designations and provide recommendations to the Town Board. The designation and mapping of sending and receiving areas may be amended by the Town Board following the same procedure.~~

~~C. Restriction on transfers. The transfer of development rights from a sending area to a receiving area shall be subject to the following restriction: Development rights transferred from a sending area in one region (region defined??) may only be assigned or transferred to a receiving area in the same region (region defined??) with the intent to equalize sending and receiving areas within each region. It is anticipated that the Town Board, when sending and receiving areas are designated and amended for the AR-40 Zoning District (see Subsection B), will establish three regions:~~

~~———(1) Region A: the Cold Springs Peninsula (defined by map);~~

~~———(2) Region B: the Seneca Region (defined by map); and~~

~~———(3) Region C: the West Phoenix Region (defined by map).~~

~~D. The TDR program is proposed to be initiated with the implementation of a revolving fund (see Subsection E), which is made possible with the acquisition of development~~

~~rights on up to three farms whose conservation easement transactions will be paid for through a Farmland Protection Implementation Grant award from the NYS Department of Agriculture and Markets.~~

~~E. Establishment of a revolving fund to purchase and sell development rights.~~

~~———(1) There is hereby established the Transfer of Development Rights Revolving Fund (hereafter, the "revolving fund") to assist in the administration of the transfer of development rights program in the Town of Lysander under this Article XXVII of the Zoning Law.~~

~~———(2) The Town, through the revolving fund, shall purchase and accept assignments of development rights, conduct periodic auctions of development rights, sell development rights and maintain a registry of development rights in accordance with the provisions of this Article XXVII of the Zoning Law and any regulations adopted by resolution of the Lysander Town Board. The revolving fund shall receive monies from the sale of Development Rights, and may also accept gifts, donations and bequests of money, Development Rights or other property. All funds shall be deposited in a special municipal account or accounts in the name of the Town. With the consent of the Town Board, monies shall be expended from the revolving fund for the purchase of Development Rights and for the expenses necessitated by the Development Rights program.~~

~~———(3) The revolving fund shall operate according to procedures expressly approved by resolution of the Town Board.~~

~~F. Establishment of an open market system to purchase and sell Development Rights.~~

~~———(1) An open market system will provide the option for sending parcel owners to sell Development Rights to the Town or to negotiate directly with interested buyers. The transfer and recording of Development Rights (and respective conservation easements) will be processed by the Town in accordance with the requirements of this article.~~

~~———(2) The open market system may be exercised within sending and receiving areas within the three regions (as further defined in Subsection C) in a chronological timeline relative to the TDR program:~~

~~———(a) Region A: no sooner than the requirements of the NYS Department of Agriculture and Markets Farmland Protection Implementation Grant are fulfilled, but not later than one year from the time of adoption of this article.~~

~~———(b) Regions B and C: one year from the time of adoption of this article.~~

~~G. Determination of the number of transferable Development Rights. The number of Development Rights available to be transferred from a sending area parcel is generally calculated based upon the underlying density permitted in the AR 40 Zoning District.~~

~~The number of Development Rights that can be used in a receiving area is based upon the underlying density permitted in the R-20 Zoning District.~~

~~————(1) The number of Development Rights is generally calculated through the following formulas, rounding down to the nearest whole number to avoid fractions of Development Rights:~~

~~No. of Acres in Sending x 0.75 = No. of Dev. Rights per Sending Acre
No. of Acres in Receiving x 1.25 = No. of Dev. Rights per Receiving Acre~~

~~————(2) The product of the numbers above shall be verified upon approval of a density determination exhibiting a buildable AR-40 subdivision scenario on sending parcels unless the landowner selects the alternative procedures in § 139-75C(2). Said density determination shall follow the procedures set forth in § 278 of the Town Law.~~

~~————(3) The product of the numbers above shall be verified upon approval of a density determination exhibiting a buildable R-20 subdivision scenario on receiving parcels. Said density determination shall follow the procedures set forth in § 278 of the Town Law.~~

~~H. Conservation easement. If the landowner of a sending parcel intends to sell Development Rights, he or she shall retain the title to the property but shall be required to attach a permanent conservation easement to the title prohibiting future development in accordance with the Town of Lysander standard conservation easement as approved by the Lysander Town Board. The perpetual conservation easement shall forever prohibit residential, industrial, and commercial uses, except in connection with agriculture as defined by the New York State Department of Agriculture and Markets, of the portion of land from which Development Rights were severed, and shall not be amended to permit such uses.~~

~~I. Transferability of remaining rights. The remaining unrestricted portion of a sending area parcel may still be developed with the remaining Development Rights, or the remaining transferable Development Rights may be sold with the remaining land deed restricted in accordance with the provisions of this article.~~

~~J. Reduction and/or extinguishment of revolving fund.~~

~~————(1) Upon fulfillment of the requirements of the NYS Agriculture and Markets Farmland Protection Implementation Grant, the Town may determine that the revolving fund contains a surplus and may adopt a resolution following a public hearing declaring a finding of excess money. The finding will be based upon one of three criteria as follows:~~

~~————(a) The revolving fund has generated more money than is needed to purchase the remaining Development Rights from the sending areas and make any residual payment otherwise due.~~

~~————~~

~~_____ (b) No purchase of Development Rights by the fund are either requested by the submission of an application under § 139-75C(1) or C(2) or completed within a period of five years.~~

~~_____ (c) All Development Rights from approved sending areas have been purchased, at which time the revolving fund may be extinguished.~~

~~_____ (2) Should the revolving fund be extinguished, the Town may elect to continue with an open market system working under due process and the TDR program procedures as prescribed herein.~~

~~K. Use of excess moneys generated through the TDR program. Excess moneys generated by the TDR program may be used by the Town for any purpose allowed under Town Law. Excess moneys shall exclude any residual payments yet owed under § 139-75E.~~

~~§ 139-75 Sending areas:~~

~~A. Sending area criteria. Land that meets the following criteria qualifies for designation by the Town Board as a sending area:~~

~~_____ (1) Sending parcels must be within the AR-40 Zoning District.~~

~~_____ (2) Sending parcels or sending acreage within parcels must contain economically viable agricultural land including either a predominance of tillable acreage or land primarily suitable for agriculture, silviculture, or horticulture (Tillable acres are the amount of land area that can be tilled to allow for crop propagation.).~~

~~_____ (3) Sending parcels must contain soils of Class 1, 2, 3 or 4, as defined by the New York State Department of Agriculture and Markets in 1 NYCRR Part 370.~~

~~_____ (4) Sending parcels must be within (or proposed to be included in) an Agricultural Taxing District.~~

~~_____ (5) Sending parcels must be a minimum of 11 acres in size or adjacent to a qualified sending parcel that contains a minimum of 11 acres of land.~~

~~_____ (6) Sending parcels must be actively farmed, be part of a farm operation, or contain vacant agricultural land suitable for farming.~~

~~_____ (7) Sending parcels must be owned or leased by a farmer or farm operation.~~

~~B. Landowner options. The landowner of an eligible sending parcel has the following development and transfer options, subject to any other applicable provisions of § 139-75:~~

~~_____ (1) Option 1: A landowner may develop his or her property in compliance with all applicable provisions of the requirements of Chapter 139, Article V, and Chapter 117 of~~

~~the Town of Lysander Code. Lot size shall be in compliance with § 139-58 for lots within Agricultural Taxing Districts.~~

~~———— (2) Option 2: A landowner may sell or transfer all or part of the Development Rights associated with the property to the Town of Lysander revolving fund for subsequent resale through a public bidding process. A sending landowner may retain one development right for every 25 acres of farmland to be preserved.~~

~~———— (3) Option 3: A landowner may sell or transfer all or part of the Development Rights associated with the property through an open market system (in compliance with § 139-74F). A sending landowner may retain one development right for every 25 acres of farmland to be preserved.~~

~~———— (4) Option 4: A landowner may transfer Development Rights from property in a sending area under his or her ownership to other property in a receiving area under his or her ownership, subject also to the applicable provisions of § 139-76.~~

~~C. Transferring Development Rights from sending areas: approval procedure.~~

~~———— (1) Landowners in designated sending areas who wish to sell Development Rights must demonstrate that their land meets the sending area criteria listed in Subsection A and will meet with the program goals and objectives outlined in Amendment No. 1 of the Town of Lysander Land Use Plan.~~

~~———— (a) The number of Development Rights that qualify for transfer shall be determined by the Town of Lysander Planning Board. A landowner must submit an application, including a conceptual plan, meeting all of the requirements of Chapter 139, Article V, of the Town of Lysander Zoning Law and all requirements of the Subdivision Regulations.~~

~~Editor's Note: See Ch. 117, Subdivision of Land. The original and three copies of a conceptual plan must be submitted to the Planning Board along with a signed written application seeking approval of the proposed transfer of Development Rights.~~

~~———— b) The application and conceptual plan shall include the following:~~

~~———— [1] A survey of the property stamped and signed by a professional licensed surveyor at a scale of no less than one inch equals 100 feet showing:~~

~~———— [a] Property acreage;~~

~~———— [b] Stream corridors;~~

~~———— [c] Wetlands and steep slopes greater than 15%;~~

~~———— [d] Vegetation other than agricultural crops (tree lines, hedgerows, etc.);~~

~~———— [e] Roads and utilities within 500 feet of the property boundary;~~

~~———— [f] Easements and rights-of-way;~~

~~_____ [g] Underground easements; and
_____ [h] Location of all building structures and impervious
surfaces.~~

~~_____ [2] A copy of a preliminary plat indicating:~~

~~_____ [a] The layout of a hypothetical subdivision that complies
with Chapter 139, Article VI, of the Town of Lysander Zoning Law and Chapter 117,
Subdivision of Land;~~

~~_____ [b] The acreage of each subdivided parcel;~~

~~_____ [c] The dimensions (width and length) of all internal roads,
stormwater management areas, and required easements; and~~

~~_____ [d] Certification by a professional licensed surveyor of all
boundaries as required for approval of a preliminary plat in accordance with the
Subdivision Regulations.~~

~~_____ (2) A landowner in a designated sending area who does not wish to follow the full
Development Rights determination set forth in Subsection C(1) may opt to accept a
development rights determination of 0.75 Development Right per acre. A landowner
must submit a signed written application electing that option, along with a survey in
compliance with Subsection C(1)(b)[1] showing the items in Subsection C(1)(b)[1][a],
[b] and [c], must follow the procedure in Subsection D and, if the landowner proposes a
sale of Development Rights to the revolving fund, must follow the procedure in
Subsection C(7) and (8).~~

~~_____ (3) The Planning Board will forward the conceptual plan to the Town Engineer.
The Town Engineer shall review the submission for accuracy and compliance with the
Town of Lysander Zoning Law and Subdivision Regulations. The Engineer shall advise
the Planning Board of findings and required adjustments to the conceptual plan.~~

~~_____ (4) At a regular meeting, the Planning Board, after giving consideration to the
engineer's report and any additional information that the parcel owner, engineer, or
Planning Board shall reasonably require, shall make a determination as to the number of
Development Rights eligible for transfer based upon either:~~

~~_____ (a) The approved preliminary plat (e.g., approval of a buildable plat by the
Planning Board) as the measure of the development potential of the parcel (i.e.,
Development Rights yield); or~~

~~_____ (b) The landowner's 0.75 Development Right per acre election.~~

~~_____ (5) Any sending area landowner who is dissatisfied with the Planning Board's
determination regarding the number of Development Rights may appeal the Planning
Board's decision to the Town Board by forwarding a letter or other written notice to the
Town Supervisor setting forth the landowner's position. The Town Board shall hear
arguments and receive evidence deemed appropriate at one or more public hearings, and~~

~~shall make a determination based upon the criteria in this article. The determination of the Town Board shall be final, and reviewable only in an Article 78 proceeding commenced within 30 days after the filing of the Town Board's determination in the Town Clerk's office.~~

~~——(6) Any appeal or review of a Development Rights determination in a sending area shall occur prior to the recording of a conservation easement. Once a property is restricted through the recording of a conservation easement, the owner's appeal and any Article 78 review is forfeited and the parcel owner shall be deemed to have finally accepted the number of Development Rights calculated by the Planning Board.~~

~~——(7) If the landowner proposes to sell the Development Rights to the revolving fund, following the determination in Subsection C(4), the applicant shall submit to the Town Board a current self-contained appraisal of the value of the land area presented in the conceptual plan and the value of the Development Rights to be transferred. An appraiser approved by resolution of the Town Board shall prepare the appraisal, and the appraisal shall comply with any requirements set by resolution of the Town Board.~~

~~——(8) If the landowner proposes to sell the Development Rights to the revolving fund, the Town Board shall establish the value of the Development Rights from the landowner's parcel based upon the appraisal. Once the value of the Development Rights is established, the Town Board will authorize the purchase of the Development Rights from the sending landowner to the extent that funds are available in the revolving fund. The Town Board will require a boundary survey of the land area to be placed in a conservation easement.~~

~~D. Transferring Development Rights from sending areas: closing and registration procedure.~~

~~——(1) After the Town Board approves the transfer of Development Rights, the sending landowner shall submit to the Town Attorney a signed Town of Lysander standard conservation easement, a title insurance report (commitment), and any other documents requested by the Town Attorney to provide the Town with a conservation easement upon, and an assignment of Development Rights from, the sending landowner's parcel free of liens, mortgages and other encumbrances. Title insurance shall be provided to the Town for the full value of the Development Rights sold.~~

~~——(2) The Town Attorney shall determine that the conservation easement is in proper legal form for recording in the County Clerk's office. The Town Attorney shall also determine, based upon the title report and any accompanying documents, that the applicant holds insurable title clear of any encumbrances to the parcel; or that rights-of-way, easements, or utilities exist on the parcel and that the holder of any lien, mortgage, or other interest affecting the conservation easement has agreed in writing to subordinate his or her interest in the parcel to the purpose set forth in the conservation easement. The Town Attorney shall certify to these facts by signing the conservation easement and shall~~

record the appropriate documents with the County Clerk and notify the Town Comptroller that the documents have been recorded.

~~————(3) Upon receipt of proof that the conservation easement has been recorded with the Onondaga County Clerk's office, the Town Comptroller shall:~~

~~————(a) Assign serial numbers to each development right;~~

~~————(b) Record the Development Rights in a registry (This record shall include the County Clerk's assigned book and page of recording of the conservation easement.); and~~

~~————(c) Forward a copy of the recorded conservation easement to the Planning Board for its information.~~

~~————(4) A landowner shall be responsible for all costs associated with the review of the enrollment application, including professional fees authorized by § 67-4 of the Lysander Town Code, and the expense of title insurance, abstract fees, and recording fees.~~

~~E. Payments from the revolving fund to the sending landowners. Where the Town Board has authorized the purchase of Development Rights, the Town will utilize the revolving fund to purchase Development Rights from the sending landowners for 75% of the current value of the Development Rights within 90 days after the recording of a conservation easement (initial payment), and any other necessary documents with the Onondaga County Clerk. Within 90 days after the Development Rights have been purchased from the revolving fund, the sending landowners will receive payments for the remaining 25% plus 90% of any proceeds above the initial appraised value (residual payment). Until such time as the Development Rights purchased with the NYS Agriculture and Markets Farmland Protection Implementation Grant are totally resold, residual payments shall be made to sending landowners in proportion to the amount of contributory Development Rights of each participant.~~

~~§ 139-76 Receiving areas.~~

~~A. Receiving area criteria. Land that meets the following criteria qualifies for designation by the Town Board as a receiving area:~~

~~————(1) Receiving parcels must be within the AR-40 Zoning District.~~

~~————(2) Receiving parcels must lack environmental sensitivity (e.g., wetlands, stream corridors, steep slopes, important habitat) or contain enough area to avoid and buffer environmentally sensitive land areas.~~

~~————(3) Receiving parcels must be within or contiguous to an existing or proposed water district.~~

~~————(4) Receiving parcels must be within, contiguous to, or in close proximity to existing sewer districts or currently proposed sewer extensions.~~

~~————(5) Receiving parcels must have direct access to an arterial road or collector road as defined in § 139-60 of the Lysander Town Code. Access to an arterial or collector road must be from a system of local roads in accordance with the Town of Lysander's Long-Range Transportation Plan, and must be built to Town standards and constructed within the proposed development.~~

~~B. Landowner or developer options. The landowner or developer of a property located in a receiving area shall have the following development options, subject to any other provisions of § 139-75.~~

~~————(1) Option 1: A landowner or developer may develop his or her property in compliance with all applicable provisions of the requirements of Chapter 139, Article V, and Chapter 117 of the Town of Lysander Code. Lot size shall be limited to the AR-40 lot size requirements and in compliance with § 139-58 for lots within Agricultural Taxing Districts.~~

~~————(2) Option 2: A landowner or developer may purchase additional Development Rights through a public bidding process and apply those Development Rights to an approved receiving site, through subdivision review pursuant to Chapter 139, Article VI (R-20), and Chapter 117 of the Town of Lysander Code. The owner of a parcel in a receiving area shall have final plat approval prior to utilizing Development Rights in a receiving area.~~

~~————(3) Option 3: A landowner or developer may purchase Development Rights through the open market system (in compliance with § 139-74F).~~

~~————(4) Option 4: A landowner may transfer Development Rights to property in a receiving area under his or her ownership.~~

~~C. General procedures and restrictions.~~

~~————(1) Purchase of Development Rights from the revolving fund shall be based upon a public bidding process. The minimum bid at any auction shall be the full value of any Development Right purchased by the Town in each respective region.~~

~~————(2) For each Development Right purchased, the receiving site landowner or developer shall be permitted to build one additional dwelling unit.~~

~~————(3) In no case shall the resulting density of the property, after the addition of the purchased Development Rights, exceed the net residential density. "Net residential density" shall mean the maximum development potential of a site that meets all of the conditions of the Town of Lysander Subdivision Regulations (Chapter 117 of the Town~~

Code) and Article VI (R-20) of the Zoning Law (Chapter 139, Article VI, of the Town Code) and conditions set forth by the Town of Lysander Planning Board necessary for preliminary plat approval of the property unless the Development Rights are transferred to a receiving area that has been designated as a planned unit development (PUD) in accordance with Chapter 139, Article XVI, of the Lysander Town Code. In the case of an approved PUD, net density may be concentrated or clustered on portions of a lot or lots as outlined in a general project plan approved by the Lysander Town Board indicating the use and density for a land area that is subject to a zone change to PUD.

———(4) Density may be increased up to 12 units per acre upon request for a zone change to planned unit development or within a cluster subdivision on a portion or portions of a receiving area. However, overall density of the development will be based upon the underlying allowable density of the R-20 Zoning District and shall not exceed 1.25 units per acre. Calculation of the overall density and the total number of units per acre shall be stated in the conditions of a change in zoning to planned unit development.

———(5) Except in a PUD, development added to property in a receiving area through the TDR program shall be consistent with the list of permitted uses in the R-20 Zone (Chapter 117 and Chapter 139, Article VI, of the Lysander Town Code) and shall be compatible with the existing and/or proposed uses on the property; and shall meet all permitting agency requirements.

———(6) The final subdivision plat shall indicate the sending parcel from which Development Rights were purchased.

———(7) When clustering, lot sizes in receiving areas shall not be less than 20,000 square feet unless public water, sewer, and adequate area for stormwater management are available. The Town Law § 278 cluster technique provided by local zoning may be exercised within the receiving areas when authorized by the Town Board. The distribution of unit density through clustering techniques is encouraged where appropriate.

———(8) Development in receiving areas should provide a variety of housing types to provide for low to moderate income housing pursuant to the Town Law of New York State.

D. Transfer of Development Rights from the registry to receiving parcels. The Planning Board shall specifically identify each lot in the proposed subdivision to which each development right shall attach. The maximum density in the receiving area will be based upon an approved preliminary plat. Upon approval of a final plat, the Development Rights will be transferred to a development parcel. If the final plat is approved for more development lots than the number of purchased Development Rights, only the approved number of Development Rights may be exercised in the receiving area. If the final plat is approved for fewer lots than the approved preliminary plat, the unused Development Rights will remain in the registry.

~~E. Approval procedures. An owner or developer of land located within a receiving area may utilize Development Rights purchased from the revolving fund or through the open market system to increase the number of units that may be developed by utilizing the following procedures:~~

~~————(1) The owner/developer of land within the receiving area must first obtain final approval for the development of a project within the receiving area contingent and conditioned on the acquisition of Development Rights.~~

~~————(2) To meet the condition of approval, the owner/developer, at or prior to the signing of a subdivision plat or the issuance of the first building permit, whichever occurs first, on forms approved by the Planning Board and obtained from the Town Clerk, shall submit to the Town Comptroller:~~

~~————(a) An original and two copies of a completed application for Development Rights use that indicates the specific source of Development Rights to be used within the development;~~

~~————(b) An original and two copies of a deed of Development Rights transfer; and~~

~~————(c) Receipt of the appropriate fees expended for review.~~

~~————(3) The Town Comptroller, with the assistance of the Town Attorney and the Town Engineer, within 95 days of receipt, shall determine that the application is complete and:~~

~~————(a) Accurately specifies the number of Development Rights indicated on the preliminary plat approved by the Planning Board for the development of the parcel sought to be developed;~~

~~————(b) Demonstrates that the developer has acquired all Development Rights needed for the proposed development; and~~

~~————(c) Accurately specifies by reference to assigned serial numbers or otherwise which Development Rights are being used by the development.~~

~~————(4) Upon the determination described in Subsection E(3), the Town Comptroller shall sign the deed of Development Rights transfer, which shall certify that recording the deed of Development Rights transfer will permanently and irreversibly transfer the number of Development Rights contained within it to the parcel of land cited, and arrange for the recording of the deed with the County Clerk.~~

~~————(5) Proof of recording of the deed of Development Rights transfer shall be a prerequisite to the issuance of any building permit for development of the land upon which the Development Rights are to be used.~~

~~————(6) Recording the deed of Development Rights transfer shall extinguish the ability to use any development right transferred except upon the parcel to which the development right has been transferred.~~

~~————(7) Upon receipt of proof that the deed of Development Rights transfer has been recorded, the Town Comptroller shall:~~

~~————(a) Record the Development Right in the registry (the record shall include the Clerk's assigned book and page of recording);~~

~~————(b) Forward a copy of the recorded deed of Development Rights transfer to the Planning Board for its information; and~~

~~————(c) Assign the transferred Development Rights to the receiving parcel in the development rights registry [§ 139-75D(3)(b)].~~

~~————(8) Any person, firm, or entity that purchases or otherwise acquires, encumbers or utilizes any development potential under this chapter shall notify the Town Clerk and Comptroller of the same in writing within 10 business days.~~

~~F. Deed of dedication. After a final plat for the first section of an approved subdivision plan is signed by representatives of the Town, but before the plat is filed, the developer shall record against the land to be developed a deed of dedication approved by the Town Attorney, which shall dedicate the entire site for use in the transfer of Development Rights program. The residual Development Rights existing on the land covered by the development, if any, shall be deemed created only upon the filing of the deed of dedication. Filing the deed of dedication shall entitle the landowner to exercise Development Rights obtained through this program and created on the land affected by the application of development at the R-20 density or for the uses permitted by provisions of this article. Until the deed of dedication is recorded, the land is subject to the density and use restrictions otherwise controlling within the district.~~

~~G. Review costs. A receiving area landowner shall be responsible for all costs associated with the review of the Development Rights transfer application, including professional fees authorized by the Town Code and recording expenses.~~

~~ARTICLE XXVIII Transfer of Development Rights Sending
and Receiving Area Overlay Regions (§ 139-77—§ 139-77)~~

~~[Added 12-8-2008 by L.L. 10-2008]~~

~~§ 139-77~~

~~Designation of sending and receiving areas.~~

~~139a Appendix A~~

~~139b Schedule A~~

~~139c Schedule B~~

~~APPENDIX~~

~~CHAPTER A147 ROADS AND HIGHWAYS~~

~~CHAPTER A148 STREET SPECIFICATIONS~~

~~DISPOSITION LIST~~

~~CHAPTER DL DISPOSITION LIST~~

~~If you are experiencing difficulties please click this link to view in Basic View.~~

QUESTIONS:

1. FENCE ORDINANCE??
~~WINDMILL ORDINANCE??~~
2. CELL TOWER ORDINANCE??
~~ADULT USE ORDINANCE??~~
3. PARKING SPACE ISSUES??
4. ~~WOOD BURNERS??~~