

**8-25-15 final draft**

**ZONING ORDINANCE**

**FOR**

**TOWN OF CHARLTON**

**COUNTY OF SARATOGA**



**Adopted September 14, 2015**

**Revised:** \_\_\_\_\_  
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**Note: The Zoning Ordinance is continuously being amended. Check with the Zoning Enforcement Officer at 384-0152 for any specific questions.**

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**Zoning Ordinance**  
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Development projects and land uses in the Town of Charlton may also be governed by other County, State and Federal regulations. These include US Army Corps of Engineers (ACOE) wetland regulations, NYS Department of Environmental Conservation (DEC) wetland regulations and associated mapping, and provisions relating to the Southwest Saratoga County Agricultural Overlay District. Individuals interested in undertaking a development project or having a question relating to land use are encouraged to check the regulations listed above.

# Town of Charlton

## Zoning Ordinance

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An Ordinance establishing a comprehensive zoning plan for the Town of Charlton by dividing the Town into various districts and prescribing certain regulations for each of said districts.

The Town Board of the Town of Charlton in the County of Saratoga, State of New York does hereby ordain and enact the following:

*Those uses not specifically permitted are prohibited, unless an Exceptional Use Permit or variance has been granted..*

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### ARTICLE I: SHORT TITLE, PURPOSE AND INTENT

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#### Section 1. Short Title.

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Charlton”.

#### Section 2. Purpose.

The purpose of the Zoning Ordinance of the Town of Charlton is to:

- Protect the health, safety, morals and the general welfare of the Town.
- To lessen congestion in the streets.
- To promote safety from fire, panic and other dangers.
- To provide for adequate light and water.
- *To manage the location and density of development within the Town.*
- To facilitate the adequate provision of transportation, water, sewerage, parks, schools and other requirements.
- To foster orderly change with a view to conserving the value of property.
- To encourage the appropriate use of the land throughout the Town.
- *To preserve farmland, open space and scenic views.*
- *To preserve the rural character of the town.*
- *To help promote the goals enumerated in the Town of Charlton Comprehensive Plan.*

Reasonable consideration, among other things, shall be given to conserving the value of property and encouraging the appropriate use of the land and its peculiar suitability for particular uses, under and pursuant to Article 262 of Chapter 62 of the Consolidated Laws.

The Zoning Ordinance of the Town of Charlton shall regulate:

- Height, number of stories, 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.
- The use of buildings structures and land for trade, industry, residence or other purposes.

#### Section 3. Intent.

It is the intent of the Town Board of the Town of Charlton, by this Ordinance to continue, and to amend, the zoning regulations of the Zoning Ordinance of the Town of Charlton as adopted *by Ordinance No. 6 on April*

~~16, 1973~~ November 13, 2000. Accordingly, to the extent that any provisions of *the aforementioned Ordinance Ordinance No. 6 of April 16, 1973* are carried forth and are part of this Ordinance without any change in content, as opposed to form, the effective date of these provisions shall be the effective date of *the aforementioned Ordinance No. 6* and this Ordinance. To the extent that any provisions of *the aforementioned Ordinance No. 6 of April 16, 1973 or this Ordinance* shall have become less restrictive by this Ordinance, the provisions of this Ordinance shall be deemed to be effective as of the date of the adoption of this Ordinance by the Town Board. To the extent that any provision of this Ordinance shall be more restrictive than the comparable provisions of *the aforementioned Ordinance No. 6*, the provisions of *the aforementioned Ordinance No. 6* shall govern ~~from April 16, 1973~~ to the date of adoption of this Ordinance by the Town Board. In the case in which regulations are present in this Ordinance and no comparable regulations are present in *the aforementioned Ordinance No. 6*, the regulations of *the aforementioned Ordinance No. 6* shall govern ~~from April 16, 1973~~ until the date of adoption of this Ordinance by the Town Board.

In no instance shall any non-conforming use in existence as of the effective date of this Ordinance which is illegal under the provisions of *the aforementioned Ordinance No. 6, April 16, 1973*, become a permitted use because of the simultaneous effectation of this Ordinance and repeal of the provisions of *the aforementioned Ordinance No. 6, dated April 16, 1973*.

## **ARTICLE II: DEFINITIONS**

### **Section 1. General.**

To facilitate understanding and better administration of this Ordinance, all words in this Ordinance shall carry their customary meanings except as specifically defined below. Terms not defined in this Ordinance shall be interpreted to carry the conventional definition attributed to it in everyday association.

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 mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged or Designed to be used or occupied”.

### **Section 2. List of Words/Terms.**

The words/terms within the Town of Charlton Zoning Ordinance are defined as follows:

**ABANDONMENT**: The voluntary, absolute relinquishment after cessation of a non-conforming or exceptional use, the giving up of a known right to which one is entitled with the intent (actual or constructive) of permanently terminating or parting with such right. The intent of abandonment shall be conclusively presumed by the cessation of a non-conforming or exceptional use by an overt act or failure to act, for a period of one year implying that the owner intends to permanently cease putting the premises to the non-conforming or exceptional use, or such other non-conforming or exceptional use as may be permitted by this Ordinance.

**ACCESS**: The lot upon which a proposed building is to be situated shall have frontage on an existing or proposed highway or street as set forth in Table IV-2, Zoning Schedule.

**ACCESSORY USE**: A use customarily incidental and subordinate to the main or principal use or building and located on the same lot with such principal use or building.

**ALTERATIONS**: As applied to a building or structure, means a change or rearrangement in the exterior structural parts or in the exit facilities; or an enlargement, whether by increasing area, height, or volume thereof; or the moving from one location or position to another.

**ANCILLARY FOOD SERVICE USE**: The use of a portion of a structure for preparation or dispensing of food for consumption on the premises wherein such use is not a principal use of the structure. Does not include vending machines for candy, ice cream and non-alcoholic beverages.

**AREA BUILDING**: The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of patios, terraces, and steps.

**AREA VARIANCE**: The granting of permission to place a structure or a building in a manner that is not in accordance with or is not permitted by the dimensional requirements of this Zoning Ordinance.

**AREA SIGN**: The permitted sign area shall be the total area on one side of all signs on the same lot or building, or advertising the same facility.

**BANK**: Establishment chartered by State or Federal government to conduct financial transactions including deposit and withdrawal of funds, cashing checks, making loans, and maintaining depositories.

**BARBERSHOP**: Establishment devoted to cutting, grooming, and treatment of natural and artificial hair for human clientele, having at least one specially adopted chair for barbering purposes.

**BASEMENT**: A story partly underground but having less than half of its clear height below finished grade.

**BEAUTY SALON:** Establishment devoted to cutting, grooming, and treatment of natural and artificial hair for human clientele, and further adopted to perform additional beauty enhancing operations upon human hair, face, hands, and generally having one or more stations including chair, sink, hair dryer, and like equipment.

**BED AND BREAKFAST:** *A private residential structure, either owner-occupied or under the supervision of a resident manager, in which rooms and meals are made available to lodgers for compensation and incidental to the residential use. Bed and Breakfast establishments are limited to not more than 5 rooms for lodgers, not more than 10 lodgers, food served only to lodgers.*

**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 ACCESSORY:** A supplemental building, the use of which is incidental to that of a principal building and located on the same lot therewith.

**BUILDING INSPECTOR:** That town employee appointed by the Town Board and charged with the responsibility of assuring compliance with Local Law # 3 of 1985 - NYS Fire & Prevention Building Code and NYS Energy Conservation Code, which employee shall be certified as a Building Official by the NYS Building Codes Council.

**BUILDING, FRONT LINE OF:** The base line of a vertical plane, parallel to the street line, and extending from one lot line to another, beyond which no portion of a building shall extend into the front yard. Side and rear building lines shall be determined in a comparative manner.

**BUILDING, HEIGHT OF:** The vertical distance measured from the average elevation of the average grade at the front of the building to the highest point of the roof for flat roofs; to the deck for mansard roofs; and to the mean height between the eaves and ridge for gable, hip or gambrel roofs.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is located.

**CELLAR:** A story partly underground and having one half or more of its clear height below the average level of the adjoining ground.

**CEMETERIES:** Licensed human burial grounds.

**CLUB, MEMBERSHIP OR PRIVATE:** An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purpose of such club. Does not include a club upon which premises the discharge of firearms is permitted.

**COMMERCIAL VEHICLE:** A vehicle, whether or not self-propelled, not licensed as a passenger vehicle, used principally for commercial or business purposes. Includes truck type vehicles of the pick-up, delivery sedan, or panel delivery types and includes truck type tractors and tractor trailers, semi-trailers, and other trailers used for the transportation of goods or merchandise for business purposes.

**COMMUNITY BUILDING:** A building used for neighborhood meetings and recreation whether a fee is charged or not, but excluding buildings belonging to a church or other places of worship.

**DOMESTIC LAWN AND GARDEN EQUIPMENT:** Non-commercial, non-industrial lawnmowers, garden tractors, snow blowers, and similar equipment principally designed for use on non-commercial properties by the owner or lessee thereof.

**DRIVEWAY:** *The location on a property boundary where there is vehicle access to the property from the street.*

**DWELLING:** A building designed or used principally as the living quarters for one or more families.

**DWELLING, MULTIPLE:** A dwelling which is initially constructed and adapted to be occupied as the temporary or permanent residence or home of two or more families living independently of each other.

**DWELLING, PRIVATE:** A dwelling occupied exclusively for residence purposes by one or two families and having one principal dwelling unit and not more than one subsidiary apartment, does not include duplex or multiple dwelling, mobile home, or tourist home.

**DWELLING UNIT:** A dwelling or portion thereof, providing housekeeping facilities for one (1) family, and not more than two (2) boarders.

**FAMILY:** One (1) or more persons not necessarily related by blood, marriage or adoption occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

**FARM:** Any parcel of land, which is primarily used for gain in the raising of agricultural products, livestock, poultry or dairy products. It does not include riding academies, livery or boarding stables and dog kennels.

**ROADSIDE FARM STAND, TEMPORARY:** *Any temporary area and/or facility used for the roadside sale of agricultural products. Temporary means that it must be moveable and not left in place at the roadside all year round.*

**FARM STAND, PERMANENT:** *Any permanent area and/or facility used for the roadside sale of agricultural products.*

**FARM BUILDINGS:** Buildings on a farm (exclusive of residence structure) specially adapted and utilized primarily in farming operations.

**FARM, CROPS:** A farm having as the principal use the raising of agricultural products other than livestock.

**FARM, DAIRY:** A farm having as a principal use the keeping, raising, breeding, or pasturing of cattle, for the purpose of producing or deriving dairy products such as milk, butter, cheese and the like.

**FARM, LIVESTOCK:** A farm other than a dairy farm having as a principle use the raising, breeding, housing, or posturing of farm animals such as cattle, sheep, goats, poultry, and horses other than for private recreational purposes only. Does not include commercial raising of hogs, swine, or pigs as a principle use.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM):** An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along watercourses studied in detail in the Flood Insurance Study.

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

exterior walls. For split-level type houses area of attached garage with living space above may be used in computing floor-area.

**FOWL FARM:** A farm used for raising for gain either poultry or gamebirds in total quantities of two hundred (200) or more birds.

**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 is leased to a non-resident of the premises.

**GASOLINE FILLING STATION:** Any area of land, including structures and buildings thereon, that is used for the sale of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include enclosed facilities used for polishing, lubricating, washing, and minor repair work excluding body work.

**HISTORIC DISTRICT AND REGULATIONS:** A delineated area of the Town designated as having a concentration of buildings and open spaces with unique architectural and historic value. Use of buildings or spaces designated as historic shall be subject to the provisions of the local law as listed in Appendix B.3.

**HOME OCCUPATION:**

An occupation or a profession which:

- A. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
- B. Is carried on by a member of the family residing in the dwelling unit, and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- D. Which conforms to the following additional conditions:
  1. The occupation or profession shall be carried out wholly or within the principal building or within a building or other structure accessory thereto.
  2. Not more than one person outside the family shall be regularly employed in the home. *occupation.*
  3. There shall be no exterior display, no exterior sign (except as permitted under Article IV), no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  4. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
  5. No parking upon the public right of way results therefrom.

In particular, a Home Occupation includes:

- A. Art, craft or dancing studio for the simultaneous instruction of four (4) students or less.
- B. Dressmaking.
- C. Professional office of a physician, dentist, lawyer, engineer, architect, agent, broker or accountant, within a dwelling occupied by the same.
- D. Teaching with musical instruction limited to a single pupil at a time.
- E. And other occupations of a similar nature.

However, a Home Occupation shall not be interpreted to include the following uses, which are listed by way of example only:

- A. Barber shops and beauty salons

***HORSE BARN:*** *A four sided, primarily enclosed building for which the primary purpose is the keeping of horses, tack, feed and other associated materials.*

**HOSPITAL:** Unless otherwise specified, the term “hospital” shall be deemed to include sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, 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 and other care of human ailments.

HOSPITAL, ANIMAL: Establishment devoted principally to the diagnosis, treatment, and/or other care of ailments of domestic animals.

IMPERVIOUS MATERIAL: Bedrock or soil with a “percolation rate” slower than one inch (1”) drop in sixty (60) minutes as determined by the procedures set forth in NYS Department of Health “Individual Household Systems” (formerly. Bulletin 1, Part III), as amended.

INDUSTRIAL EQUIPMENT: Cranes, power shovels, bulldozers, backhoes, rollers and similar equipment, except that any such equipment kept on a livestock or dairy farm as defined herein and principally used in farming operations shall not be included.

INSTRUCTION STUDIOS: Structures principally or exclusively devoted to provision of artistic, craftsmanship, musical, dancing, acting, and similar instruction to groups of students or separate individual students simultaneously.

JUNKED CAR: An automobile or truck which is unregistered and inoperative, and partially or totally dismantled or parts thereof left on any parcel of land external of a building for seven (7) weeks or more.

*KENNEL: A residence or other structure used for the business of boarding more than four (4) dogs that are more than four (4) months old and are owned by people other than those who reside in, or own the residence or structure, or who operate the kennel.*

LINE, STREET: The dividing line between the street or highway right-of-way (ROW) and the abutting real properties.

LOT: A parcel of land occupied or capable of being occupied by one principal building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Ordinance.

LOT, CORNER: A parcel of land at the junctions of and fronting on two or more intersecting streets. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side of lot lines intersect at an interior angle of less than one-hundred thirty-five (135) degrees.

LOT DEPTH: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the sidelines of the lot. The general direction shall be along a line substantially bisecting the area of the lot.

LOT FRONTAGE: Continuous uninterrupted width of a lot at the front lot line along a single street or highway ROW boundary.

LOT LINES: The lines bounding a lot as defined herein. The front lot lines shall be the boundary between the property and the near edge of the highway ROW. For purposes of this definition, all highway ROW’s shall be presumed to be fifty (50) feet in width unless otherwise defined to be of greater width on a duly filed map.

LOT OCCUPANCY: That percentage of a lot covered by the building area.

LOT WIDTH: The mean width of the lot substantially perpendicular to the lot depth.

MOBILE HOMES: Any vehicle or similar portable structure which is designed to be, or is capable of being, transported on its own wheels or those of another, whether or not the wheels have been removed or said

vehicle or similar portable structure placed on a temporary or permanent foundation, and is so designed or constructed as to permit occupancy for permanent dwelling or sleeping purposes. A travel or camping trailer shall not be considered a mobile home. A modular home as defined herein shall not be considered a mobile home.

**MOBILE HOME PARK:** Means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

**MODULAR HOUSE:** A home built in two (2) or more prefabricated parts, transported in sections, assembled and erected upon a foundation or concrete slab and having siding of similar nature to custom built residential structures.

**NATURAL PRODUCTION USES:** The excavation and sale of sand, gravel, clay, shale, or topsoil. Does not include mining of ores, minerals, and the like either by strip mining or shaft excavation, or any other method.

**NON-CONFORMING BUILDINGS:** A building existing at the time of the enactment of this Ordinance which does not conform to the regulations, excepting use regulations, of the district in which it is situated.

**PARKING SPACE UNITS:** An off street space available for the parking of one motor vehicle and having an area of not less than two hundred (200) sq. ft. exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street, highway, or alley.

**PROFESSIONAL BUILDINGS:** A structure devoted exclusively to providing office and associated facilities for the practice of medical, legal, dental, engineering, insurance brokerage, and similar professions normally providing services but not goods to clients and patients on an individual basis.

**PUBLIC UTILITY SUBSTATION:** A structure containing equipment for conversion, switching, storage, modification and transmission of public service commodities such as telephone service, electric power, natural gas and water which is normally self-operating.

**REFUSE DUMPS:** A lot or land or part thereof which has a use thereof the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, used cars, or parts thereof, or waste materials of any kind.

**RESTAURANT:** Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises, whether food is served upon order or taken by self-service. Does not include uses for preparation and dispensing of food for off-premises consumption.

**RETAIL STORES:** A mercantile establishment conducted wholly within the principal structure carrying a closely related line of merchandise and in which sales are made to clientele by one or more sales people. Does not include self-service establishments with check out registers as principal point of monetary transaction, or laundromats.

**~~ROADSIDE STAND:~~** ~~Any area and/or facility, temporary or otherwise, used for the roadside sales of produce or goods.~~

**SCHOOL:** An educational facility, either public or private, designed and operated to provide educational services at primary, secondary, college, and university levels which meets the requirements of the Education Law and the Board of Regents of the State of New York.

**SIGN:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or government

agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. A simple identification of a business or approved use on one outside wall of a building in which such business or use is conducted shall not be included in the limitation of sign area requirements. Any other signs on the outside of any building shall be included.

**STABLE AND RIDING ACADEMY:** Any establishment where horses are kept for riding, or stabling for compensation or incidental to the operation of any club, association, ranch, or similar establishment.

**STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA):** The law as codified in Article VIII of the Environmental Conservation Law and the implementing regulations codified in Title 6 of the New York Code of Rules and Regulations (NYCRR) Part 617.

**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 be no floor above it, then the space between any floor and the ceiling next above it.

**STREET:** Any public way, which affords a principal means of access to abutting properties.

**STRUCTURE:** Structure means a combination of materials to form a construction that is safe and stable, the use of which requires location on the ground, or attachment to something having location on the ground and includes among other things dwellings, garages, stables, farm buildings, platforms, radio towers, sheds, storage bins, and display signs.

**SUBDIVISION:** Any tract of land which is hereafter deeded or transferred into two or more parcels for sale or rent as residential lots or residential building plots, regardless of whether the plots be sold or offered for sale, or leased for any period of time, and are described by metes or bounds or by reference to a map or survey of the property or by any other method of description.

**TELECOMMUNICATION ACCESSORY FACILITY:** *A facility that serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot or parcel as the principal use. Examples of such facilities include transmission equipment and storage sheds.*

**TELECOMMUNICATION ANTENNA:** *A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.*

**TELECOMMUNICATION FACILITY:** *A combination of telecommunication equipment including a tower, antenna and accessory facilities.*

**TELECOMMUNICATION TOWER:** *A structure which is capable of receiving and/or transmitting signals for the purpose of communication.*

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

**UNDERTAKING ESTABLISHMENT:** A facility having as a principal use the lawful embalming, viewing, temporary storage and conduct of funerals for deceased humans.

**USE:** The specific purpose for which land or a building is used or occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

**USE VARIANCE:** The granting of permission to use land in a manner that is not in accordance with but is similar to a permitted use or similar to an exceptional use listed in Article VII, Section 6.

YARD: That portion of the lot not occupied by the principal building.

YARD, FRONT: The space within and extending the full width of the lot from the front line to the part of the principal building which is nearest to such front lot line.

YARD, REAR: The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such lot line.

YARD, SIDE: The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

## **ARTICLE III: ESTABLISHMENT OF DISTRICTS AND BOUNDARIES**

### **Section 1. List of Zoning Districts.**

The Town of Charlton is hereby divided into the following types of districts:

- R - Residential District
- R/A - Residential/Agricultural District
- A - Agricultural District
- HO - Historic Overlay District

### **Section 2. Zoning District Map.**

The districts listed in Section 1 of this Article are bounded and defined as shown on the map (Appendix A) entitled “Zoning Map of the Town of Charlton”. The Zoning Map of the Town of Charlton, with all the explanatory material thereon, is hereby adopted and certified by the Town Board and with all the explanatory matter therein is hereby made a part of this Ordinance, and may be amended in the same manner as any other part of this Ordinance.

### **Section 3. Interpretation of District Boundaries.**

Where uncertainty exists with respect to the boundaries of any land use districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are indicated as approximately parallel to the center lines of streets or highways, street lines or highway right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, the dimension shall be determined by the use of the scale shown on the Zoning Map.
- C. Where district boundaries are indicated as approximately following the course of a stream or river, such district boundaries shall be construed as being a line equidistant from both opposite banks of the stream or river at normal water level.
- D. Where district boundaries are indicated as approximately following the Town boundary line, property line, lot lines, or projections thereof, the district boundaries shall be construed to be coincident with such lines or projections thereof.
- E. In the event that none of the above rules applies, or in the event that future clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

## **ARTICLE IV: REGULATIONS**

### **Section 1. Application of Regulations.**

Except as provided in this Ordinance:

- A. No building, part of a building, lot or any facility such as a septic system on or in the land and existing at the time of passage of this Ordinance shall be changed in use, erected, moved or altered unless in conformity with the regulations specified for the district in which it is located.
- B. On or after the date of adoption of this Ordinance, a building shall not be erected, moved or altered.
  - 1. To exceed the height as specified for the district in which it is located.
  - 2. To accommodate or house a greater number of families than is specified for the district in which it is located.
  - 3. To occupy a greater percentage of lot area than is specified for the district in which it is located.
  - 4. To have narrower, or smaller, rear yards, front yards, or side yards than is specified for the district in which such building is located.
- C. Any part of a yard or other open space required about any building for the purpose of complying with the provisions of this Ordinance shall not be included as a part of a yard or other open space similarly required for another building.

### **Section 2. Schedule of Regulations.**

To facilitate understanding and administration of this Ordinance, permitted and non-permitted uses, and special exception uses for buildings and land, are set forth in Table IV-1, for each of the districts established by Article III of this Ordinance. Regulations limiting the use of buildings and land, and the bulk and arrangements of buildings are set forth in Table IV-2, "Zoning Schedule", for each of the zoning districts established by Article III of this ordinance. Whenever in the Schedule there appears the words "same as in (Symbol of District) above", such words shall be construed to include the specific limitations set forth in the same column for the referred to district. Otherwise, all limitations as to use, percentage of area, permissible height, minimum floor area, required yards and minimum yard size, and other requirements shall be those set forth in this Schedule from left to right.

**Table IV-1  
Summary of Permitted Uses, Site Plan Review Uses,  
Special Exception Uses, and Uses Not Permitted**

<b>USE:</b>	<b>R</b>	<b>R/A</b>	<b>A</b>	<b>HO*</b>
<b>Residential Uses:</b>				
A. Private Dwellings with Customary Home Occupations	P	P	P	P
B. Multiple Dwellings	X	SE	SE	X
C. Mobile Home Park	X	SE	SE	X
<i>D. Solar Arrays</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P,</i>
<b>Agricultural Uses:</b>				
A. Farms, Crops only	X	P	P	<i>P</i>
B. Farms, Dairy	X	P	P	<i>P</i>
C. Farms, Livestock (except dairy)	X	P	P	<i>P</i>
<b>Equestrian Uses:</b>				
A. Riding Academies and Stables Used for the Boarding of Horses	X	SE	SE	<i>SE</i>
<del><i>B. Stables</i></del>	<del>X</del>	<del>SE</del>	<del>SE</del>	<del>X</del>
<b>Recreational Uses:</b>				
A. Golf Courses	X	SE	SE	X
B. Keeping of Horses	X	P	P	<i>P</i>
C. Private or Membership Clubs	X	SE	SE	X
<b>Commercial Uses:</b>				
A. Animal Hospital	X	SE	SE	X
B. Banks	X	SE	SE	X
C. Barber Shop	X	SE	SE	<i>SE</i>
D. Beauty Salon	X	SE	SE	<i>SE</i>
E. Domestic Lawn and Garden and Services	X	SE	SE	X
F. Gasoline Filling Stations	X	SE	SE	X
G. Instructional Studios	X	SE	SE	<i>SE</i>
H. Kennels	X	SE	SE	X
I. Natural Production	X	SE	SE	X
J. Professional Buildings	X	SE	SE	X
K. Restaurant/ <i>Banquet Facility</i>	X	SE	SE	<i>SE</i>
L. Retail Stores	X	SE	SE	<i>SE</i>
M. Undertaking Establishments	X	SE	SE	X
<i>N. Bed and Breakfast Establishments</i>	<i>X</i>	<i>P-SPR</i>	<i>P-SPR</i>	<i>P-SPR</i>
<i>O. Solar Arrays</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>
<i>P. Telecommunications Facilities</i>	<i>X**</i>	<i>SE</i>	<i>SE</i>	<i>SE</i>
<b>Other Uses:</b>				
A. Cemeteries	X	SE	SE	X
B. Churches and other places of worship, Religious Instruction, Parish Houses, Rectories, Convents	P-SPR	P-SPR	P-SPR	<i>SE</i>
C. Community Building, Fire Station, Police Station	X	P-SPR	P-SPR	<i>SE</i>
D. Hospitals	X	SE	SE	X
E. Library	P-SPR	P-SPR	P-SPR	<i>SE</i>
F. Ponds	X	P	P	<i>P</i>
G. Private Schools Offering General Education	P-SPR	P-SPR	P-SPR	<i>SE</i>
H. Public Schools	P-SPR	P-SPR	P-SPR	X

\* **Review by Historic District Commission required – see District boundaries on Zoning Map in Appendix A and District regulations in Appendix B-3.**

\*\* *With Exception, see Appendix B-13 for restrictions in Residential District.*

<b>Legend:</b>	
Permitted Use	P
Use Requiring Site Plan Review	SPR
Special Exception Use	SE
Use Not Permitted	X

**TABLE IV - 2  
ZONING SCHEDULE**

1. Districts	2. Permitted Principal Uses	3. Minimum Lot Area	4. Minimum Lot Width Feet	4a. Minimum Frontage Feet	5. Max. Ht. of Dwell. Feet	6. <del>Minimum Setback Dimensions</del> <del>Minimum Yard Dimensions in Feet</del>				10. Min. Flr. Area Per Dwelling Sq. Ft.	11. Maximum Percentage of		13. Permitted Accessory Uses	14. Accessory Uses Minimum Distance in Feet to					18. Main or Principal Building
						6. <i>Minimum Front Yard, Feet</i>	7. <i>Minimum Total Two Side Yards, Ft</i>	8. <i>Minimum Side Yard, Feet</i>	9. <i>Minimum Rear Yard, Feet</i>		11. Lot Occupancy Total	12. Accessory Buildings		14. Maximum Height in Feet	15. Front Lot Line	16. Side Lot Line	17. Rear Lot Line		
Residential [R]	1-Private dwellings with customary home occupations	2 acres	<del>150</del> 200	<del>150</del> 200	30	40	40	15	50	Residential [R]	17%	5%	1-Private garage <i>if detached</i> 1a. Private garage <i>if attached</i>	20	40	15	15	5 ( <i>if detached</i> )	
	2-Churches and other places of worship and religious instruction; parish houses; rectories; convents*	2 acres	200	200	40	60	100	40	50	800			2-Tool house, play house, greenhouse <i>if detached</i> Accessory building in 1 & 2 above may be in side yard subject to columns 7,8,14,15 and 18 or in rear yard subject to columns 14,15,16,17 and 18	20	75	40 5	5	25 ( <i>if detached</i> )	
	3-Public schools, private schools offering general education*	2 acres	200	200	40	60	100	40	50	See Definition of "Floor Area" in Article II				Except cannot exceed height of dwelling					
	4-Libraries, police and fire stations*	2 acres	200	200	40	60	100	40	50				3-Swimming pool – permitted in rear or side yards only	No limit other than in side or rear yard.	10	10	10	No Limit	
Residential/ Agriculture [R/A]	1-Farms, dairy	50-25 acres	500	500	30	60	200	100	100	Residential/ Agriculture [R/A]	5%	4%	1-Private garage <i>if detached</i> 1a. Private garage <i>if attached</i>	20	40	15	15	5 ( <i>if detached</i> )	
	2-Farms; <i>Farms</i> , livestock	25-10 acres	500	500	30	60	200	100	100				2-Tool house, play house, 2a Greenhouse <i>if detached</i> , pole barn	20	75	40 5	5	25 ( <i>if detached</i> )	
	3-Farms, crops only	5 acres	300	300	30	60	200	100	100	800			3-Swimming pool-permitted in rear or side yard only	20	75	15	15	No limit.	
	4-Private dwellings with customary home occupations	2 acres	200	200	30	60	100	40	50				4-Customary agricultural accessory <i>uses buildings</i>	20	75	5	5	25 ( <i>if detached</i> )	
	5-Private dwellings with customary home occupations and keeping of horses for recreational purposes	3-5 acres	200	200	30	60	150	60	100				5-Horse barn, stable	20	75	15	15	No limit.	
	6-Churches and other places of worship and religious instruction; parish houses; rectories; convents in connection with schools*	2 acres	200	200	40	60	100	40	50	See Definition of "Floor Area" in Article II			6-Customary religious or educational accessory uses*	40	125	100	100	100	
	7-Public schools, private schools offering general education*	2 acres	200	200	40	60	100	40	50				7-Farm Stand, Temporary	30	10, with two feet of additional setback required for every foot of height over 10 feet	10, with two feet of additional setback required for every foot of height over 10 feet	10, with two feet of additional setback required for every foot of height over 10 feet	25	
	8-Libraries, police and fire stations and community buildings*	2 acres	200	200	40	60	100	40	50				8-Farm Stand, Permanent	40	40	40	40	25	
	9-Ponds	2 acres	200	200	Not Applicable	Not Applicable	100	40	20										25
Agriculture [A]	1-Farms, dairy	50-25 acres	500	500	30	60	200	100	100	Agriculture [A]	5%	4%	1-Private garage <i>if detached</i> 1a. Private garage <i>if attached</i>	20	40	5	5	5 ( <i>if detached</i> )	
	2-Farms; <i>Farms</i> , livestock	25-10 acres	500	500	30	60	200	100	100				2-Tool house, play house, greenhouse <i>if detached</i>	20	75	5	5	25 ( <i>if detached</i> )	
	3-Farms, crops only	5 acres	300	300	30	60	200	100	100	800			3-Swimming pool-permitted in rear or side yard only	20	75	5	5	25 ( <i>if detached</i> )	
	4-Private dwellings with customary home occupations	2 acres	200	200	30	60	100	40	50				4-Customary agricultural accessory <i>uses buildings</i>	20	75	5	5	25 ( <i>if detached</i> )	
	5-Private dwellings with customary home occupations and keeping of horses for recreational purposes*	3-5 acres	200	200	30	60	150	60	100				5-Horse barn, stable	20	75	5	5	25 ( <i>if detached</i> )	
	6-Churches and other places of worship and religious instruction; parish houses; rectories; convents in connection with schools*	2 acres	200	200	40	60	100	40	50	See Definition of "Floor Area" in Article II			6-Customary religious or educational accessory uses**	40	125	100	100	100	
	7-Public schools, private schools offering general education*	2 acres	200	200	40	60	100	40	50				7-Farm Stand, Temporary	30	10, with two feet of additional setback required for every foot of height over 10 feet	10, with two feet of additional setback required for every foot of height over 10 feet	10, with two feet of additional setback required for every foot of height over 10 feet	25	
	8-Libraries, police and fire stations and community buildings*	2 acres	200	200	40	60	100	40	50				8-Farm Stand, Permanent	40	40	40	40	25	
	9-Ponds	2 acres	200	200	Not Applicable	Not Applicable	100	40	20										25
Historic Overlay [HO]	<del>1-Private Dwellings***</del> 1. Same as Residential/ Agricultural District**	2 acres	200	200	30	60	100	40	50	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	Same as Residential/ Agricultural District	

\* Site Plan Approval by Town of Charlton Planning Board required (see Appendix B-5).

**\*\* Review by Historic District Commission required (see Appendix B-3). See Zoning Map (Appendix A) for Historic Overlay District boundaries.**

**Section 3. Sanitary Facilities and Water Wells**

- A. ~~Each residential building lot shall have its own water supply located on that property, except where a public water supply exists and is connected to the residential building on that property. Shared wells for non-commercial residential multiple properties are prohibited. Granting of a residential building permit shall be contingent upon the construction of a water well with adequate flow volume and acceptable potability, in accordance with New York State Department of Health regulations.~~

Except where sewage disposal lines are connected to a community sewage system *or a SPDES Permit allowing Point Discharge has been granted by the New York State Department of Environmental Conservation*, an adequate sanitary disposal system, including adequate septic tank and drainage field, shall be installed and maintained on each lot where the use of any building on the lot involves the disposal of sewage or sanitary waste material. A subdivision or lots within a subdivision shall not be sold, offered for sale, leased or rented by any corporation, partnership or individual, and a permanent building shall not be erected until a plan or map of the subdivision in accordance with the applicable provisions of the State Sanitary Code and approved by the New York State Department of Health are filed and approved by the Town of Charlton Planning Board in accordance with the requirements for approval of subdivision plans in the Town of Charlton.

~~All wastewater disposal systems (septic tanks, drain fields, etc.) for uses generating less than 1,000 gallons per day shall meet the requirements of New York State Department of Health’s Administrative Rules and Regulations design standard (10NYCRR Appendix 75-A), entitled “Individual Residential Wastewater Treatment Systems Design Handbook, 1996”, or any updates thereof. All wastewater disposal systems (septic tanks, drain fields, etc.) for uses generating greater than 1,000 gallons per day shall meet the requirements of New York State Department of Environmental Conservation’s design standard entitled “Design Standards for Wastewater Treatment Works Intermediate Sized Sewerage Facilities, 2014”, or any updates thereof. Table IV-3. Separation of wells and septic systems on any lot, including from septic systems on neighboring properties, as specified in Table IV-3, shall not be subject to modification by variance. The separation distance must meet the NYS DOH requirements shown in Table IV-3.”~~

**Table IV-3**  
**Minimum Separation Distances For**  
**Installation of Sanitary Septic Systems**

	<del>Permitted Lot Any</del>	<del>Drinking</del>	<del>Pond or</del>	<del>Septic</del>	<del>Drain</del>	<del>Drainage</del>	<del>Highway</del>
	<del>yard</del>	<del>Line</del>	<del>Water</del>	<del>Stream*</del>	<del>Tank</del>	<del>Field</del>	<del>Ditch</del>
<del>Well Any</del>	<del>10 ft.</del>	<del>50 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>
<del>Septic Tank Rear**</del>	<del>10 ft.</del>	<del>50 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>30 ft.</del>	<del>30 ft.</del>
<del>Drain Field Rear**</del>	<del>20 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>100 ft.</del>	<del>25 ft.</del>	<del>25 ft.</del>

~~\*Stream includes those watercourses, which only flow intermittently (for six (6) months or more).~~

~~\*\*May be included in other yards where terrain prohibits gravity drainage in rear yard.~~

- ~~B. The following requirements shall be binding upon applications for subdivisions, individual lots, except as modified in accordance with Section C.3. of this section and lots bounded by other lands owned or controlled by the owner or applicant:
 
  - ~~• A percolation rate of forty five (45) minutes or less. A percolation test is required for determination of the percolation rate. A professional engineer or land surveyor licensed by the NYS Department of Education shall perform the percolation test. Any such lot having a percolation test greater than forty five (45) minutes cannot be subdivided and cannot use a septic system for waste disposal. No building permit shall be granted for a lot for which the~~~~

~~percolation rate is greater than forty five (45) minutes. These requirements shall not be subject to modification by variance.~~

- ~~• Bedrock at a depth of five (5) feet or more below the bottom of the proposed tile field.~~

**TABLE IV-3  
REQUIRED SEPARATION DISTANCES FROM WASTEWATER SYSTEM  
COMPONENTS<sup>(h)</sup>**

<b>System Components</b>	<b>Well (f) or Suction Line</b>	<b>To Stream, Lake Watercourse (b), or Wetland</b>	<b>Dwelling</b>	<b>Property Line</b>	<b>Drainage Ditch(b),(g)</b>
<i>House Sewer (watertight joints)</i>	<i>25' if cast iron or PVC with O-ring joints, 50' otherwise</i>	<i>25'</i>	<i>-3'</i>	<i>10'</i>	<i>—</i>
<i>Septic tank</i>	<i>50'</i>	<i>50'</i>	<i>10'</i>	<i>10'</i>	<i>10'</i>
<i>Effluent line to distribution box</i>	<i>50'</i>	<i>50'</i>	<i>10'</i>	<i>10'</i>	<i>10'</i>
<i>Distribution box</i>	<i>100'</i>	<i>100'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Absorption field</i>	<i>100'</i>	<i>100'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Seepage pit</i>	<i>150'</i>	<i>100'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Dry well (roof and footing)</i>	<i>50'</i>	<i>25'</i>	<i>20'</i>	<i>10'</i>	<i>10'</i>
<i>Raised or Mound System (e)</i>	<i>100' (a)</i>	<i>100'</i>	<i>20'</i>	<i>10'</i>	<i>10'</i>
<i>Intermittent Sand Filter (e)</i>	<i>100' (a)</i>	<i>100'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Evapotranspiration-absorption system (e)</i>	<i>100' (a)</i>	<i>50'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Composter</i>	<i>50'</i>	<i>50'</i>	<i>20'</i>	<i>10'</i>	<i>10'</i>
<i>Sanitary Privy Pit</i>	<i>100'</i>	<i>50'</i>	<i>20'</i>	<i>10'</i>	<i>20'</i>
<i>Privy, Watertight Vault</i>	<i>50'</i>	<i>50'</i>	<i>20'</i>	<i>10'</i>	<i>10'</i>

**NOTES:**  
*(a) When sewage treatment systems on any property are located in coarse gravel or upgrade and in the general path of drainage to well, the closest part of the treatment system shall be at least 200 feet away from the well.*  
*(b) Mean high water mark.*  
*(c) For all systems involving the placement of fill material, separation distances are measured from the toe of slope of the fill.*  
*(d) Any water service line under pressure (i.e. public water supply main, household service line, well to household service line) located within ten feet of any absorption field, seepage pit or sanitary privy shall be installed inside a larger diameter water main to protect potable water supply.*  
*(e) Any water service line under pressure (i.e. public water supply main, household service line, well to household service line) or a sewer shall be installed with one full length of water main centered above the sewer so both water connecting joints are as far as possible from the sewer. Section 8.6 of the GLUMRB Recommended Standards for Water Works, shall be followed for separation of water mains, sanitary sewers and storm sewers.*  
*(f) The minimum separation distance between a septic tank and a community type public water supply well should be 100 feet. Distribution boxes and absorption facilities (e.g., absorption trenches/beds, seepage pits, raised systems, mound systems, etc.) shall be located at least 200 feet from community type public water supply wells.*  
*(g) Recommended separation distances.*  
*(h) The distance required between a well and any part of any septic system includes septic systems on neighboring properties.*

**Source: "INDIVIDUAL RESIDENTIAL WASTEWATER TREATMENT SYSTEMS DESIGN HANDBOOK"  
 NYS DEPT. OF HEALTH, [Table 2, Appendix A, Statutory Authority: Public Health Law 201(1)-(1)]**

- ~~Seasonally high groundwater at a depth of three (3) feet or more below the bottom of the proposed tile field.~~
  - ~~Installed and maintained a septic tank and tile field meeting at least, the requirements of the NYS Department of Health (NYSDOH) as set forth in the "Standards for Individual Water Supply and Individual Sewage Disposal Systems – (Subchapter I, Part 75A)". The minimum drain field shall be that required for a percolation rate of ten (10) minutes per inch.~~
- C. ~~Additional requirements applicable only to individual lots. If bedrock is at a depth less than five (5) feet, or seasonally high ground water is at a depth less than three (3) feet below the bottom of the proposed tile field and the percolation rate is forty five (45) minutes or less, a "built up system" is~~

~~acceptable. In such instances, the owner of the lot shall submit to the Code Enforcement Officer/Zoning Administrator a plan for a system whether or not wholly installed in the natural unmodified terrain. Such plan shall be signed and certified by a professional engineer licensed by the State of New York State Department of Education and regularly engaged in this type of work. Such plan or layout shall meet at least the following design criteria and construction specifications, and shall be approved by the Town Engineering Consultant or Town Engineer. A fee that will be held in escrow is required to cover the cost of such engineering reviews. Note that under NYS DOH requirements a built up system is not acceptable in a subdivision.~~

~~1. — Design criteria for “Built up Systems”.~~

- ~~a.) — A minimum of three (3) feet separation between the bottom of the drain fields and seasonally high ground water.~~
- ~~b.) — A minimum of five (5) feet separation between the bottom of the drain field and impervious material (bedrock or soil with percolation rate slower than one inch (1”) drop in water level in forty five (45) minutes).~~
- ~~c.) — The maximum allowable existing ground surface slope for mound/fill systems shall be ten percent (10%).~~
- ~~d.) — The fill material shall have a percolation rate of not faster than a one inch (1”) drop in water level in ten (10) minutes, and not slower than one inch (1”) drop in thirty (30) minutes.~~
- ~~e.) — Where fill is to be placed on top of existing soil with a percolation rate faster than a one inch (1”) drop in water level in forty five (45), minutes organic debris, including leaves and other plant forms, shall be removed prior to the placement of fill. The natural ground should be tilled prior to placement of fill.~~
- ~~f.) — The drain field size shall be based on the percolation rate in the fill material or the percolation rate of the existing soil, whichever is slower.~~
- ~~g.) — All other pertinent criteria listed in “Standards for Individual Water Supply and Individual Sewage Disposal Systems” (Subchapter I, Part 75A) are applicable.~~
- ~~h.) — Systems that mainly rely on evaporation and/or transpiration for effluent disposal are not permitted.~~

~~2. — Specifications for “Built up” Systems.~~

- ~~a.) — The “built up” sewage disposal system shall consist of two distinct areas (see Figures IV-1 and IV-2):~~
  - ~~i.) — Disposal Area — that area in which the tile field is to be placed. The fill in the disposal area shall be placed to meet Design Criteria, items a. through h. Minimum horizontal distances from the extremity of the drain field to the edge of the top of the fill shall be:~~
    - ~~— Ten (10) feet in the up-slope direction~~
    - ~~— Twenty five (25) feet in the side-slope direction~~
    - ~~— Twenty five (25) feet in the down-slope direction~~
    - ~~— Twenty five (25) feet in all directions on level ground~~

~~ii.) — Buffer Area that area which will provide a minimum of eighteen (18") inches of naturally or artificially placed, usable soil buffering the tile field area. The fill plus any existing usable soil must have a minimum depth above the impervious material of eighteen inches (18"). Fill shall be placed to meet Design Criteria Items 1c, 1d, 1e, 1f, and 1h. Minimum horizontal distances from the extremity of the disposal area to the edge of the buffer area shall be:~~

- ~~—Twenty five (25) feet in the up-slope direction~~
- ~~—Twenty five (25) feet in the side-slope direction~~
- ~~—Fifty (50) feet in the down-slope direction, and~~
- ~~—Fifty (50) feet in all directions on level ground~~

~~b.) — The fill shall be allowed to compact naturally for at least six (6) months from the time of placement, or receive equal mechanical compaction prior to percolation and deep hole tests.~~

~~c.) — A channel or berm shall be placed about the "built-up" system in the up-slope direction and of sufficient length to divert surface and sheet water runoff around the "built-up" system.~~

*Figure IV-1*  
*Typical Build Up Field Layout on Slope*

*Figure IV-2*  
*Section and Detail View of Field Layout*

3. Certifications ~~of “Built-up Systems”.~~

Any sanitary system constructed ~~in accordance with the foregoing design criteria and specifications~~ shall be inspected by a professional engineer licensed by the State of New York Department of Education. The inspecting engineer shall certify to the *Code Enforcement Officer/Zoning Administrator*, that such designs, specifications, construction, and installation of the system ~~inspected~~, conforms with the design criteria and specifications as set forth in this Ordinance. A Certificate of Occupancy shall not be issued until the aforementioned inspection and certification is performed and submitted by the inspecting engineer.

C. Additional requirements:

1. No building permit, ~~for a structure having wastewater disposal facilities~~, shall be granted for a lot for which the percolation rate is ~~slower~~ ~~greater~~ than ~~sixty~~ ~~forty-five~~ (6045) minutes per inch, or unless a SPDES Permit allowing point discharge has been issued for the proposed use by the New York State Department of Environmental Conservation, and a copy of said permit is on file with the *Code Enforcement Officer/Zoning Administrator*. This requirement shall not be subject to modification by variance.
2. It is the responsibility of the owner of any lot or lots to provide a design and construction of a septic system(s) that will not under any seasonal variation in precipitation, ground water level, or other changing conditions, result in the discharge upon the surface of the ground or into the atmosphere any sewage, noxious effluent or odors or to create a public health nuisance. ~~Although the foregoing criteria are minimum conditions toward achieving the required sanitary results, it is the responsibility of the owner to meet all requirements of the Town of Charlton Local Law #2 of the Year 1975 (see Appendix B-4).~~
3. The *Code Enforcement Officer/Zoning Administrator* shall be notified at least forty-eight (48) hours in advance of when the percolation tests are to be conducted. ~~A and a NYS licensed engineer shall perform the tests. the Zoning Administrator or his/her designated representative shall witness the tests.~~ Such percolation tests shall be conducted upon the unmodified natural terrain of the lot. ~~Should any deviation from this requirement be contemplated, such tests shall be conducted under such additional conditions and at such times as shall be prescribed by the Town Engineer or Town designated Engineering Consultant.~~
4. If the required forty eight (48) hour notification is not given, the *Code Enforcement Officer/Zoning Administrator* shall reject the percolation tests and require that proper notification be given and new tests be conducted.
5. Requirements for conduct of tests and submission of data:
  - a.) All percolation tests must be performed in native site material (*i.e. in-situ soil*). *Use of imported fill material not permitted to obtain suitable percolation.*
  - b.) The tests shall be performed at opposite ends of each proposed system.
  - c.) The tests shall be performed in the area where the drain field is to be located.
  - d.) The tests shall be conducted in accordance with the procedures in NYSDOH publication entitled “*Wastewater Treatment Standards – Individual Household*

~~*Systems” Standards for Individual Water Supply and Individual Sewage Disposal System” (Subchapter I, Part 75A).*~~

- e.) All percolation test data collected, including data for all test runs prior to obtaining the stabilized percolation rate and the date or dates of which the tests were conducted shall be submitted with the building permit application.
  - f.) A deep hole shall be dug under the location of the proposed drain field to a depth of seven feet (7') below the *original, undisturbed grade*. A soil log recording the observation made of the deep hole shall be submitted to the *Code Enforcement Officer/Zoning Administrator* for review. Soil mottling, if found is to be observed and recorded, including the depth at which it is found. If not found, this fact shall be reported. Observation of soil mottling at a depth of less than three feet (3') shall be considered as the equivalent of finding groundwater at that level. If groundwater and/or bedrock are observed between zero (0') and seven feet (7'), the deep hole shall cease at that depth. The depth of mottling, groundwater and/or bedrock is to be recorded in the soil log and reported to *the Code Enforcement Officer/Zoning Administrator*.
  - ~~g.) *The installation of a drain field in any given location shall not be permitted if observations of the deep hole show bedrock within five (5) feet or groundwater within three feet (3') or less below the designated bottom of the drain field.*~~
  - g.) All the above data submitted for percolation tests, bedrock and groundwater shall be certified and personally signed by a professional engineer or land surveyor licensed by the State of New York Department of Education and regularly engaged in this type of work. This test data will be part of the *Code Enforcement Officer/Zoning Administrator's* public records.
6. If after the percolation data are taken, the type of soil or topography in which the drain field is to be installed is changed, the percolation test and deep hole evaluation are to be redone at the applicant's expense.
7. Should the Town need clarification of any required test results, the Town reserves the right, at the expense of the Town, to conduct its own tests.
- ~~8. *Using the percolation test data submitted with the application the minimum length of the drain field shall be derived from Table 4A “Required Length of Absorption Trench” in NYSDOH publication entitled “Standards for Individual Water Supply and Individual Systems” (Subchapter I, Part 75A).*~~
89. A Certificate of Occupancy will not be issued until the septic system has been inspected and approved by the *Code Enforcement Officer/Zoning Administrator*. At least twenty-four (24) hours prior to the desired time for inspection, the builder/contractor responsible for the installation of the septic system shall provide a written notice to the *Code Enforcement Officer/Zoning Administrator* that the septic system is ready for inspection. The septic system components shall be left uncovered and open for inspection. For new construction, the well site shall also be visible or uncovered. Only an on-site inspection by the *Code Enforcement Officer/Zoning Administrator* will be permissible. Photographs or other materials will not be accepted. The on-site inspection shall consider the location, size, shape and adequacy of the septic system and its conformance with the approved design and the specifications of this Ordinance. Upon receiving the written notice, the *Code*

*Enforcement Officer/Zoning Administrator* or his (her) authorized representative shall, weather permitting, inspect the septic system within seventy-two (72) hours. The *Code Enforcement Officer/Zoning Administrator* shall notify the builder in writing by letter post-marked within forty-eight (48) hours of inspection, whether the system meets the requirements of this Ordinance. Should the *Code Enforcement Officer/Zoning Administrator* or his authorized representative find that said system fails to meet the requirements of this Ordinance, he/she shall, in written notice to the builder, indicate specifically in what manner the septic system is not in conformance with the requirements of this Ordinance.

- ~~949.~~ Reconstruction - In the event that a septic system or drain field is to be reconstructed or located on a lot upon which an existing structure stands, the contractor/builder actually responsible for the reconstruction shall secure the necessary permits and be responsible for meeting the requirements of this Ordinance. Failure to comply with this section shall constitute a violation of the Ordinance.

#### **Section 4. Supplementary Regulations.**

A. Height.

The height limitations of this Ordinance shall not apply to: Churches; schools; hospitals; and water towers; and other municipal 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, exclusive of church spires, belfries, cupolas and domes when not for human occupancy, monuments, observation towers, transmission towers, chimneys, flag poles, non-commercial radio towers, masts and aerials, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

B. Area.

A lot shall not be reduced in area resulting in an area or open space less than prescribed in the regulations for the district in which the lot is located. Whenever such reductions in lot area occur, any building located on the lot shall not be used until such building is altered, reconstructed or relocated to comply with the area and yard requirements of this Ordinance. These provisions shall not apply when a portion of a lot is taken for a public purpose.

C. Existing lots.

Other provisions of this Ordinance notwithstanding, nothing shall prohibit the use of a lot of less than the required area and width for private dwelling in any district provided that all the other provisions of this Ordinance are complied with, when such lot, at the time of the adoption or amendment of this Ordinance was owned by, or under contract of sale to persons other than those owning or leasing any adjoining lot.

D. Stripping of topsoil.

Any area of land, having an area of more than one-half acre from which top soil has been removed or covered over by fill, shall be seeded to provide an effective cover crop within the first growing season following the date on which stripping of soil from an area of one-half acre is exceeded.

E. Fences and walls in Residential Districts.

The following regulations apply to fences and walls in Residential Districts:

1. Front yards - No wall or fence over four (4) feet in height, *measured above the natural grade*, may be erected within or bounding any required front yard.
2. Side yards - A wall or fence may be higher than four (4) feet if it is a retaining wall. If it is a fence or freestanding wall above such height, at least fifty (50) percent of the whole surface shall be unobstructed and open in a uniformly distributed manner, and it shall not be greater than seven (7) feet in height *measured above the natural grade*.
3. Rear yards - No wall or fence, except for retaining walls, shall exceed seven (7) feet in height *measured above the natural grade*.

F. Clear vision zone for traffic safety.

No permanent obstruction to view in excess of three and one-half (3-1/2) feet in height measured perpendicularly from the street grade shall be maintained on the premises in the area formed by the intersecting street or highway lines and the line connecting the points seventy-five (75) feet along the center line of such street from the intersection of such center lines so as to interfere with the view of traffic approaching the intersection.

G. Siding material.

A building, constructed for the purposes of human habitation, or any building used or intended for use as an accessory building to such a dwelling, shall not have, after it is occupied for more than a total of three-hundred and sixty-five (365) days, external siding of extremely inflammable and easily ignitable material. The use of tarpaper and any other material, which is at least as inflammable and ignitable, is prohibited. Any building utilized as a principal structure shall have exterior siding of stone, brick, wood, aluminum or vinyl clapboard, or other conventional siding materials, which conform to the general character of the neighborhood.

H. Public utilities.

This Ordinance shall not restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the laws of the State of New York. Other facilities of public utilities shall conform to the provisions of this Ordinance.

I. Refuse dumps.

No refuse dump or deposit of rubbish, garbage, or other waste shall be permitted in any district. One (1) cubic yard or more of refuse generated or one (1) junked car not removed for seven (7) consecutive weeks is hereby declared to be a refuse dump. The prohibition against refuse dumps shall include all dumps and refuse dumping operations as defined herein. The depositing, placing, dumping or otherwise disposing of waste, refuse and/or garbage from outside the boundaries of the Town of Charlton upon any land located within the Town of Charlton is prohibited. Refuse dumps shall also be subject to all other existing provisions of the Town, County, and State laws.

J. Signs permitted. *\*\* In the Historic Overlay District, review by the Historic District Commission shall be required (see Appendix B-3). See the Zoning Map (Appendix A) for Historic Overlay District boundaries.*

1. Only signs conforming to the following requirements will be permitted in any zoning district of the Town:
  - a.) Announcement or professional signs not to exceed a total area of two (2) square feet.
  - b.) Signs pertaining to the sale, lease, rent or use of a lot or building on which the sign is placed or on premises not to exceed a total area of six (6) square feet.
  - c.) Institutional and religious announcement signs not to exceed a total area of twelve (12) square feet.
  - d.) Temporary signs during construction, repairs, or alterations not to exceed a total area of twelve (12) square feet.
  - e.) On premises, realty signs designating development areas, not to exceed twelve (12) square feet in total area.
  - f.) Signs of non-profit organization for public benefit not to exceed total area of four (4) square feet.

~~g.) Signs, which direct attention to a business commodity, service, or entertainment, which is the principal use of the land or of buildings thereon, will be permitted in any Residential/Agriculture or Agriculture District. Such signs shall not exceed thirty (30) square feet in total area and any one sign shall not exceed fifteen (15) square feet in area.~~

*g.) Signs that direct attention to a business commodity, service, or entertainment, which is the principal use of the land or buildings thereon, will be permitted in any Residential/ Agricultural or Agricultural District. The total area of such signs shall not exceed thirty (30) square feet and any one sign shall not exceed fifteen (15) square feet in area. A maximum of four (4) off-site signs for directional purposes, each not to exceed six (6) square feet in area per side, shall be permitted.*

h.) Lights of adequate and reasonable intensity directed to the sign only may illuminate signs. Lighting is not to be directed into the travel lanes of adjoining streets. Flashing lights or external neon-type signs are prohibited. The Town Board may allow, by exceptional use permit, external neon-type signs in any Agriculture or Residential/ Agriculture District when the provisions of Article VII, Section I are met to its satisfaction.

2. The following signs are prohibited:

- a.) Signs which extend higher than the structure with which the sign is associated.
- b.) Rotating or power driven *mobile* signs exterior of any building.
- c.) *L.E.D. Signs*
- d.) *Neon Signs*

K. Additional Residential District regulations.

The following regulations shall apply to any Residential District:

1. On corner lots:
  - a.) The setback for the side yard adjoining the side street shall be equal to the required front yard setback for the zoning district in which it is located.
  - b.) The setback requirement along the side street for accessory buildings and off-street parking spaces shall conform to the front yard setback requirement for the zoning district in which it is located.
2. The minimum distance between accessory buildings shall be ten (10) feet.
3. External storage or continued parking of industrial equipment or mobile homes is prohibited.
4. The following regulations apply to external storage or parking of commercial vehicles, licensed or unregistered:
  - a.) External storage or parking of licensed or unregistered commercial vehicles on any lot is prohibited, except that one (1) pickup, delivery sedan or panel truck type vehicle of not more than one (1) ton gross capacity is permitted provided that the vehicle is licensed and regularly used in the business of the occupant, or regularly used for his/her private transportation.
  - b.) External storage or parking of more than one (1) unregistered commercial vehicle or truck of less than one (1) ton gross capacity on any lot for more than thirty (30) days is prohibited.
5. Housing of fowl, horses, cattle, sheep, goats or other such livestock on the land or in a building is prohibited.
6. Principal or accessory uses, except as set forth in Table IV-2, "Zoning Schedule", are prohibited.
7. The following regulations apply to swimming pools:
  - a.) Swimming pools shall be located in the side or rear yards only.
  - b.) Swimming pools located in the side yard must be visually screened from the street or highway by aesthetically acceptable planting. In addition, fencing which complies with the fence requirements of this Ordinance and the NYS Uniform Fire prevention and Building Code is required.
  - c.) Swimming pools shall conform to the "Ordinance Providing Safeguards for Swimming Pools in the Town of Charlton, County of Saratoga" adopted September 17, 1964 (see Appendix B-12).

L. Additional Residential/Agricultural *District, Agricultural District, and Historic Overlay District* Regulations.

The following regulations shall apply to any property within the Residential/Agricultural *District, Agricultural District and Historic Overlay* District:

1. On corner lots:
  - a.) The setback for the side yard adjoining the side street shall be equal to the required front yard setback for the zoning district in which it is located.
  - b.) The setback requirement along the side street for accessory buildings and off-street parking spaces shall conform to the front yard setback requirement for the zoning district in which it is located.
2. The minimum distance between accessory buildings shall be ten (10) feet.
3. External storage or continued parking of industrial equipment or mobile homes is prohibited.
4. The following regulations apply to the keeping of horses for personal use, or for the owner's private recreation:
  - a.) The minimum size of a lot on which horses may be kept is five (5) acres. Two (2) adult horses shall be permitted on a five (5) acre lot. Each additional adult horse kept shall require one (1) acre of lot size in addition to the minimum five (5) acre lot size.
  - b.) A suitable structure to protect the horses from adverse weather conditions and fencing to restrain the horses from leaving the property of the owner shall be required.
  - c.) The keeping of horses primarily for breeding, farming, and commercial purposes shall be confined to livestock farms, riding academies, and stables as defined in this Ordinance, and shall be subject to the provisions of this Ordinance.
  - d.) *The keeping of horses for uses other than those listed in paragraph c. above, shall only be allowed if a manure management plan is approved by the ZBA and/or Planning Board and all other requirements are met.*
5. Use of a parcel of land for the commercial raising of horses, fowl, cattle, sheep, goats and other such livestock, and not satisfying the requirements of a dairy or livestock farm as set forth in this Ordinance, is prohibited.
6. The following regulations apply to farm stands, *both permanent and temporary*:
  - a.) *Farm* stands are permitted only as an accessory agricultural use.
  - b.) Sales are limited primarily to non-processed agricultural produce, which has been principally grown on the same premises where the stand is to be located.
  - ~~c.) The minimum setback shall be ten (10) feet from the public right of way line.~~
  - cd.) An adequate off-street parking area shall be provided.
7. The following regulations apply to swimming pools:
  - a.) Swimming pools shall be located in the side or rear yards only.

- b.) Swimming pools located in the side yard must be visually screened from the street or highway by aesthetically acceptable planting. In addition, fencing which complies with the fence requirements of this Ordinance and the NYS Uniform Fire Prevention and Building Code is required.
  - c.) Swimming pools shall conform to the “Ordinance Providing Safeguards for Swimming Pools in the Town of Charlton, County of Saratoga” adopted September 17, 1964 (see Appendix B-12).
8. The following regulations apply to external storage or parking of commercial vehicles, licensed or unlicensed:
- a.) External storage or parking of licensed or unlicensed commercial vehicles in sections of the district which are primarily residential and comprised of lots less than two (2) acres in size is prohibited; except that:
  - b.) Parking of one (1) pickup, delivery sedan or panel truck vehicle types of not more than one (1) ton gross capacity is permitted provided that the vehicle is licensed and regularly used in the business of the occupant or regularly used for his/her private transportation.

9. *External storage of one (1) or more unlicensed automobiles or trucks on a lot for more than thirty (30) days is prohibited. Farm vehicles are exempted from this prohibition.*

~~*The following regulations apply to unlicensed automobiles or trucks:*~~

~~*a.) External storage of one (1) unlicensed automobile or truck on a lot of two (2) acres or less for more than thirty (30) days is prohibited.*~~

~~*b.) External storage of three (3) unlicensed automobiles or trucks on any lot greater than two (2) acres in area for more than thirty (30) days is prohibited.*~~

~~*c.) External storage of more than three (3) unlicensed automobiles or trucks on any lot are prohibited.*~~

***MN.*** Additional Regulations for all districts.

The following regulations apply to all districts:

- 1. Those uses not specifically permitted are prohibited, unless an exceptional use permit for the proposed use is granted. An exceptional use permit shall not be granted if in the opinion of the Board considering an application for the permit, it will create excessive waste, gases, liquids or effluents, or conditions of hazard, smoke, fumes, noise, vibration, odor, or dust, or will be detrimental to the health, safety, convenience, environment, *economic*, or general welfare of the people of the Town of Charlton.
- 2. Mobile homes shall only be permitted as specified in Article VI, Section 3 C or when located in approved mobile home park (see Appendix B-2).

3. *Any cul-de-sac shall meet all Town road engineering requirements and have a minimum diameter of 65 feet with an additional 30 feet easement for snow storage.*

## **Section 5. Non-Conforming Buildings, Structures, and Uses.**

Except as otherwise provided in this Ordinance, the lawful use of any building or land or sign existing on the date of adoption or amendment of this Ordinance may be continued, although such use does not conform with the provisions for the district in which it is situated, subject to the provisions of Article 1, Section 3, and the limitations set forth below:

### A. Unsafe non-conforming structures.

Any structure or portion thereof declared unsafe by the Town Board may be restored to a safe condition providing that the restoration does not result in an enlargement or extension of the non-conforming aspect of the structure or use.

### B. Extension of non-conforming uses and/or structures.

1. A non-conforming use of any building or land shall not be enlarged or extended except as set forth in the following paragraph, and any building or part shall not be altered, unless the altered or enlarged portion is changed to a condition and use which is permitted by this Ordinance. Once the non-conforming use or condition is changed to a conforming use or condition, the non-conforming use or condition shall not be reestablished. This provision shall not prevent the replacement of a structural member to insure the safety of the building.

#### 2. The following regulations apply to non-conforming uses:

- a.) A non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such uses on the date of the adoption of this Ordinance or subsequent amendments.
- b.) The natural production use of any lot occurring on the date of adoption of this Ordinance or subsequent amendment may be extended throughout the lot provided that the extension of the material production use is in accordance with the provisions of Article VII, Section 6.
- c.) A non-conforming use of a building may only be changed to another non-conforming use, if re-application to the Zoning Board of Appeals is made, and in the opinion of the Zoning Board of Appeals, such use is the same or of a more restricted classification.”

~~*A non-conforming use of a building may be changed to another non-conforming use, if, in the opinion of the Zoning Board of Appeals, such use is the same or of a more restricted classification*~~

### C. Alterations to buildings containing a non-conforming use.

Alterations to any building or part thereof which contains a non-conforming use shall be made only pursuant to an order made by the Zoning Board of Appeals.

D. Completion, extension or construction of buildings originated prior to adoption of the Zoning Ordinance.

Nothing contained in this Ordinance shall require any change in plans for construction, or designated use, of a building complying with laws existing prior to the date of adoption or amendment of this Ordinance, provided that active and substantial construction of the building originated prior to the date of adoption or amendment of this Ordinance, and further provided that such construction or alteration shall be diligently pursued to completion and that the ground story framework, including the second tier of beams, shall be completed within twelve (12) months of the date of the adoption or amendment of this Ordinance, and building shall be completed within two (2) years of the adoption or amendment of this Ordinance.

E. Restoration.

A building used to house a non-conforming use may be restored if damaged or partially destroyed other than by the deliberate act or acts of the owner, lessee, agent, or an employee acting on behalf of the owner, lessee or agent subject to the following conditions:

1. The dimensions of the restored building shall not exceed those of the original building.
2. If the building is completely destroyed, the restored building shall be in conformity with the lot line and yard dimensional requirements of this Ordinance. The Board of Appeals may waive this provision by variance granted in accordance with the provisions of Section 267-b of NYS Town Law and Article VI Section 3 of this Ordinance.

F. Abandonment.

When a non-conforming use or use approved by special exception has been abandoned, it shall not be reestablished thereafter. When a non-conforming, business or commercial use approved by special exception has been vacated, not used or occupied or discontinued for a period of one (1) year, it shall be conclusively presumed to have been abandoned.

G. Displacement.

Non-conforming use shall not be extended to displace a conforming use.

H. Creation of non-conforming uses due to changes in district boundaries.

Whenever the boundaries of a zoning district shall be changed so that, under the regulations that apply in the changed area, a conforming use shall become a nonconforming use, all of the provisions of this section shall apply to the non-conforming use, effective on the date of the change.

I. Registration.

The following regulations apply to registration of non-conforming business or commercial uses:

1. All non-conforming business or commercial uses shall be registered with the *Code Enforcement Officer/Zoning Administrator* on forms provided from the Town.
2. The owner, or owner's agent of the property, or building on which the nonconforming use exists shall make the registration.

3. The registration is to be made within one (1) year following the date when the use becomes non-conforming under the provisions of the Ordinance or amendment thereto.
4. The registration shall include a plot plan of such use. The plot plan shall include, but not be limited to the surveyed dimensions of the lot on which the use is to occur; the location and dimensions of buildings; a written description of potential impacts to neighboring properties; and means of ingress and egress to the public right-of-way.
5. Failure to register within one (1) year from the date when the use becomes nonconforming shall create a presumption that the use is non-conforming and is in violation of this ordinance or amendments thereto.

J. Standards for determining a non-conforming use.

The following standards shall apply when determining a use to be non-conforming:

1. A non-conforming use shall be deemed to be lawfully in existence only after *satisfactory* evidence is presented to the *Code Enforcement Officer/Zoning Administrator* that the use did in fact exist on or before the date of adoption of the Ordinance; or on such date the use becomes nonconforming under this Ordinance.
2. Where the non-conforming use is a business use, the existence of signs, tools, or merchandise without substantial business activities sufficient to indicate the intention of making a profit shall not be deemed to be sufficient by itself to be a nonconforming use. If the number of hours being spent in the operation of a nonconforming business is more than twenty (20) hours per week, the *Code Enforcement Officer/Zoning Administrator* shall issue a Certificate of Occupancy *or Certificate of Compliance*. The Certificate of Occupancy *or Certificate of Compliance* shall be revoked if the time so spent in the operation of the business during the following six (6) month period averages less than twenty (20) hours per week or shall not be substantially uniformly spent throughout the period.
3. All other Certificates of Occupancy *or Certificates of Compliance* for non-conforming business uses shall be issued only after approval by the Zoning Board of Appeals (ZBA). The ZBA may approve the Certificate upon a determination of the intention of the owner or occupant to make a profit taking into account such factors as the total amount of receipts, the amount of time actually spent in the conduct of the business, the proportion of the year the business is being carried on, the use of business practices and principles, improvements being made to reduce expenses, a detailed and complete bookkeeping system is used, the operator has reasonable experience in the business, the business is not primarily a hobby, the income of the business has been reported for income tax purposes, the property is listed as being at least in part, business property on the real property tax rolls.

# ARTICLE V. ADMINISTRATION AND ENFORCEMENT

## Section 1. Interpretation and Application

In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, general welfare, environment and other purposes enumerated in the enactment clause of this Ordinance. It is not the intent of this Ordinance to repel, abrogate, annul, or in any way impair or interfere with any existing easements, covenants or other agreements between parties, or any existing provisions of law, more restrictive than the provisions of this Ordinance.

## Section 2. *Code Enforcement Officer/Zoning Administrator*

A *Code Enforcement Officer/Zoning Administrator* and an Assistant *Code Enforcement Officer/Zoning Administrator* shall be appointed by the Town Board. The terms and compensation are to be set by the Town Board. The *Code Enforcement Officer/Zoning Administrator* or the Assistant *Code Enforcement Officer/Zoning Administrator*, in his/her absence, shall have initial authority to enforce, interpret and administer this Ordinance. The powers and duties of the *Code Enforcement Officer/Zoning Administrator* shall include:

- A. Receive all applications for building permits, ~~and~~ Certificates of Occupancy *and Certificates of Compliance* and require that all such applications be accompanied by maps, surveys, plans, and test results as required by this Ordinance or which he/she shall deem necessary to determine whether such application meets the requirements of this Ordinance, and shall collect the fees as required.
- B. Make a determination based upon material submitted to him/her, and any relevant facts, which may come to his/her cognizance, whether such application complies with all relevant provisions of this Ordinance.
- C. Issue or deny permits based upon his/her determination. He/She shall provide the applicant for any permit or certificate, which is denied with a written notice of denial and the reasons for the denial. A copy of the notice of denial shall be forwarded to the Zoning Board of Appeals.
- D. Maintain a written record of all properties containing a non-conforming use and perform the following tasks in establishing and maintaining these records:
  1. Inspect, at least annually, all properties containing a non-conforming use.
  2. Determine whether the non-conforming use has been abandoned, or has been enlarged without the proper permit or approval as set forth in this Ordinance.
  3. In instances where it is determined that a non-conforming use has been abandoned or illegally enlarged, the *Code Enforcement Officer/Zoning Administrator* shall file an affidavit with the Town Clerk. The affidavit shall explain the determination made and the reasons and facts which support the determination made. A report of such instances shall be included in the periodic report made to the Town Board.
  4. Annually report to the Town Board as to the general status of the non-conforming uses in the Town.
- E. ~~He/She shall~~ Receive copies of all orders, permits for exceptional land usage and/or approvals issued by the Town Board or Zoning Board of Appeals, with or without special conditions and

requirements as conditions for the continuation of such uses, and variances issued by the Zoning Board of Appeals with or without special conditions. the *Code Enforcement Officer/Zoning Administrator He/She* shall at least annually inspect properties operating under such permits to determine whether such conditions are being complied with. *In the event the Code Enforcement Officer/Zoning Administrator shall find non-compliance, they shall issue an appearance ticket upon the owner, or the duly constituted agent of the owner, who shall then be required to appear before a Town Justice with a plan for remedying the non-compliance. The owner, or his/her agent shall, have ten (10) days to remedy the non-compliance, or be guilty of an offense punishable by fine or imprisonment or both, as set forth in Article VIII, VIOLATIONS AND PENALTIES. In the event he/she shall find noncompliance, he/she shall serve written notice by registered mail upon the owner or the duly constituted agent of the owner. If non-compliance is not remedied within thirty (30) days of the date the notice was issued he/she shall file an affidavit of his/her findings together with supporting facts and evidence with the Town Clerk and report the status to the Town Board.*

- F. ~~He/She shall k~~ Keep clear, concise and adequate records of all his/her activities in performance of his/her duties including all applications for permits and certificates and the action taken on these permits/certificates.
- G. ~~He/She shall m~~ Make a monthly report to the Town Board of all his/her activities in the performance of his/her duties in form specified by the Town Board and shall turn over to the Town Board all fees collected. A copy of his/her monthly report shall be filed with the Town Clerk.
- H. ~~He/She shall, a~~ After consultation with the Town Board, initiate any legal action the board shall determine appropriate to require compliance with this Ordinance and abate any violations thereof.
- I. In the event that any of *the Code Enforcement Officer/Zoning Administrator's his/her* actions or determinations are appealed to the Zoning Board of Appeals, *the Code Enforcement Officer/Zoning Administrator he/she* shall forward to the Board copies of all records relevant to such action or determination and shall appear or be represented by his/her Assistant before the Board when a public hearing upon the appeal is held.
- J. *The Code Enforcement Officer/Zoning Administrator shall* require from any person wishing to file an appeal to the Zoning Board of Appeals, the appeal fee and twelve (12) copies of such appeal and any supporting material. Upon receipt of an appeal and supporting material he/she shall transmit the appeal and supporting material to the secretary of the Zoning Board of Appeals. The material shall concisely address each consideration as stated within Section 267-b of Town Law, whether the appeal concerns an area variance or use variance. The material submitted with the appeal shall, as a minimum include and definitively describe the following:
  - 1. Property location as related to public roads or intersections;
  - 2. A plot plan showing dimensions to lot lines, and scaled building location(s);
  - 3. Identification and location of neighboring properties, including mailing addresses;
  - 4. The significant characteristics of the property relative to the appeal;
  - 5. Property owner's name if applicant is different from the owner, with authorization to act as legally constituted agent for the owner. This provision shall not preclude any person wishing to appeal to the Zoning Board of Appeals from filing such appeal and supporting material directly with the secretary of the Zoning Board of Appeals.

- K. *The Code Enforcement Officer/Zoning Administrator shall* receive and transmit to the Town Board applications for Exceptional ~~Land~~ Use Permits.
- L. *The Code Enforcement Officer/Zoning Administrator He/She* shall review all building permit applications for new construction or substantial improvements to determine whether proposed construction or substantial improvements on the proposed building site will be reasonably safe from flooding and designated wetlands. In conducting this review the *Code Enforcement Officer/Zoning Administrator* shall also check the Floodway Map as issued by the Federal Emergency Management Agency, and the Wetlands Map as issued by the NYS Department of Environmental Conservation for adequate separation from designated wetlands. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must be in accordance with the standards for flood damage prevention as set forth in Appendix B-10.
- M. *The Code Enforcement Officer/Zoning Administrator He/She* shall review subdivision proposals and other proposed new developments to assure that proposals are in accordance with the standards for flood damage prevention as set forth in Appendix B-10 and:
1. All such proposals are consistent with the need to minimize flood damage,
  2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage, and
  3. Adequate drainage is provided to reduce exposure to flood hazards.
- N. *The Code Enforcement Officer/Zoning Administrator He/She* shall require that new and replacement water supply systems and/or sanitary sewage systems be in accord with the standards for flood damage prevention as set forth in Appendix B-10 and be designed and/or located;
1. To minimize or eliminate infiltration of floodwaters into the systems.
  2. To minimize or eliminate discharge from the systems into flood waters.
  3. To avoid impairment of the systems during flooding.
  4. To avoid contamination from the systems during flooding.
- O. *The Code Enforcement Officer/Zoning Administrator He/She* shall have the following duties in regards to temporary Certificates of Occupancy:
1. Receive and transmit applications for temporary Certificates of Occupancy to the Zoning board of Appeals.
  2. Issue temporary Certificates of Occupancy only after:
    - a. Approval by the Zoning Board of Appeals.
    - b. He/She verifies that the permanent sanitary system has been installed in accordance with the provisions of this Ordinance.
    - c. He/she verifies a complete set of footings or complete foundation slab for a permanent residence structure has been completed within forty-five (45) days of the date of approval by the Zoning Board of Appeals.

3. Monitor construction progress of the permanent residence during the period of the temporary Certificate of Occupancy, and if necessary, take action as set forth in Article VI, Section 3., Paragraph C.4.
  4. Monitor the site to verify removal of all components of the mobile home or other temporary dwelling have been removed within sixty (60) days from the date of issuance of the Certificate of Occupancy for the permanent residence.
  5. Notify the Town board at the next regular meeting if removal of all components of the temporary structure is not accomplished within the sixty (60) day time period.
- P. *The Code Enforcement Officer/Zoning Administrator He/She* shall annually review all exceptional use permit uses and report to the Town Board any such use not in compliance with this Ordinance or any condition imposed.
- Q. Review all building permits and where applicable, see that regulations of Local Law # 2 of 1973, Historic Zoning District and Historic Zoning Commission (see Appendix B-3), are complied with.
- R. Insure notice of Right-to-Farm law is included on building permits in accordance with Appendix B-11, Section 4.
- S. *Emergency Use of a Conditional Certificate of Occupancy- He/She shall issue a conditional Certificate of Occupancy in all districts for an individual motor home, mobile home, travel trailer or similar type structure to be occupied by residents whose dwelling has been damaged by fire, flood or other catastrophe. Occupancy shall be during the period while the owner constructs/reconstructs/ repairs a permanent dwelling on the same lot in accordance with this ordinance. The initial determination is to be made by the Code Enforcement Officer/Zoning Administrator who may issue the conditional Certificate of Occupancy. He/She must notify the neighbors and report the issuance of the conditional Certificate of Occupancy to the ZBA. The conditional Certificate of Occupancy shall be valid for up to six months and may be renewed for another three additional consecutive periods of up to six months, but only by application to the ZBA. The conditional Certificate of Occupancy will be issued only after a building permit has been issued and shall be issued for the minimum time to reasonably complete the work. The site must meet all appropriate state and town requirements for health and sanitation. It must be shown that reasonable progress has been made upon such construction prior to renewal of the conditional Certificate of Occupancy. Upon completion of the restoration the motor home, mobile home, travel trailer or similar type structure must be removed within 7 days.*
- T. Any other power or duty which may be delegated or imposed by the Town Board.

### **Section 3. Building Permits.**

*Compliance with the New York Code of Rules and Regulations (NYCRR) and the New York State Building Code is required in addition to the provisions of this Ordinance.*

- A. A building, structure or sanitary facility shall not be excavated for, erected, added to or structurally altered externally until a building permit has been issued by the *Code Enforcement Officer/Zoning Administrator*. Except upon final adjudication to the contrary by a Board or Court from which no appeal is taken, a building permit, or a Certificate of Occupancy, *or Certificate of Compliance* shall not be issued for any building where said construction, addition, or alteration or use thereof would not conform with the provisions of this Ordinance.

Applications for building permits may be made by the owner of the property, the lessee or the legal agent of either. Failure to obtain a building permit prior to beginning construction shall be a violation of this Ordinance. If a contractor or builder performs construction work for which a building permit is required, he/she shall first ascertain that the owner, lessee or legal agent with whom he/she has contracted with has secured the necessary permits before beginning construction or be in violation of this Ordinance.

B. Each building permit application shall include:

1. ~~Two~~ ~~Four~~ (2) copies of a layout or plot plan showing:
  - a.) Actual dimensions of the lot to be built upon.
  - b.) Actual size, location on the lot, and dimensions of the principal building and accessory buildings to be erected.
  - c.) The location and size of the septic tank (if any).
  - d.) The exact location and size of the drain field (if any), including exact location of percolation tests to be done, and the predevelopment and post-development contours of the lot at two foot intervals.
  - e.) The location of the well (if any).
  - f.) The plot plan shall fully comply with the provisions of Art. IV, Sections 2 and 3.
  - g.) Any other information that the Code Enforcement Officer/Zoning Administrator may deem necessary to provide for the enforcement of this Ordinance.
2. Obtain the Building Inspector's certification that the construction will be in conformance with the NYS Uniform Fire Prevention and Building Code, and the NYS Energy Conservation Code.

C. One copy of the layout or plot plan shall be returned with the issuance of an approved building permit by the *Code Enforcement Officer/Zoning Administrator* to the applicant upon payment of a fee as set by the Town Board. A permit shall not be required for a temporary accessory building on a farm as defined in Article II, Section 2. Temporary is defined as one (1) year or less.

D. The *Code Enforcement Officer/Zoning Administrator* shall not refuse to issue a building permit or a Certificate of Occupancy *or Certificate of Compliance* for a lot, which does not meet the area requirements of this Ordinance provided that the following conditions are met:

1. The sole reason for the proposed development lot not being in conformance with this Ordinance is by virtue of the fact that the lot is less than the required area; and
2. The lot is shown on a plot plan that was submitted to and received preliminary approval from the Town of Charlton Planning Board prior to the adoption or amendment of this Ordinance.
3. The development proposed for the lot complies with all other provisions of this Ordinance.

E. Building permits for lots not located on improved mapped streets.

1. A permit may only be issued for erection of any building for which:
  - a.) A street or highway giving access (as defined in Article II, Section 2) to such proposed structure has been duly placed on the official map or plan, or if there be no official map or plan the applicant:
    - i.) Proposes to provide access (as defined in Article II, Section 2) to the proposed building from an existing state, county or Town highway, or
    - ii.) Proposes to provide access (as defined in Article II, Section 2) to the proposed building from a street shown on a plot plan approved by the Planning Board as per Section 276 and 277 of NYS Town Law, as in effect at the time the plot plan was approved.
2. Before a permit is issued, the street or highway proposed to provide access shall have been suitably improved to the satisfaction of the Town Board in accord with all existing ordinances and regulations.
3. When the enforcement of the provisions of this section would entail unnecessary hardship, or when the circumstances of the case do not require the structure to be related to existing or proposed streets or highways, the applicant for such a permit may appeal from the decision of the *Code Enforcement Officer/Zoning Administrator* having charge of the issue of permits, to the Zoning Board of Appeals.
4. The same provisions are hereby applied to such appeals to the Zoning Board as are provided in cases of appeals on zoning regulations. The Board may in passing on such appeal make any reasonable exception and issue the permit subject to conditions that will protect any future street or highway layout. The Zoning Board of appeals shall not consider variances for construction of residential structures unless such lot has its own frontage on a street or highway as defined in Paragraph 1, above. When frontage variances are granted in accordance with Article VI, Section 3B, the minimum frontage shall be forty (40) feet. All properties of record in the Town of Charlton at the time of filing of Local Law #1, dated October 10, 1990, which have access to a street or highway less than forty (40) feet but greater than 15 feet shall be exempt from the minimum forty (40) foot frontage requirement of this local law. The exemption shall only be recognized so as to constitute one access way. Such exemption does not negate the decision-making powers of the Zoning Board of Appeals in deciding on a variance request. Any such decision shall be subject to review by certiorari order issued out of a special term of the Supreme Court in the same manner and pursuant to the same provisions as in appeals from the decisions of such Board upon zoning regulations.

F. The *Code Enforcement Officer/Zoning Administrator* shall only issue permits for projects which conform to Town of Charlton Zoning Ordinance. Specifically:

1. Permits for permitted uses not requiring site plan review as listed in Table IV-2 may receive a permit without further review from the Town Board, Planning Board, or Zoning Board of Appeals.
2. Permits for proposed projects involving uses listed on Table IV-2 which require site plan review in accordance with the provisions of Local #1 of 1979 (see Appendix B-5) shall not be issued until the proposed project has received site plan review and approval from the Planning Board in accordance with the provisions of this Ordinance.

3. Permits for proposed projects involving uses listed in Article VII which require a special exception permit shall not be issued until the proposed project has received a special exception permit from the Town Board, or Zoning Board of Appeals, if so delegated by the Town Board, in accordance with the provisions of this Ordinance.
  4. Permits for proposed projects involving establishment of non-conforming uses shall not be issued until the proposed project has received approval from the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
  5. Permits for proposed projects which require Historic District Commission review (see Appendix B-3) shall not be issued until such review is completed.
- G. One (1) copy of a building permit suitable for exterior posting shall be supplied to the owner or the owner's agent to whom such permit is granted. The permit shall be posted conspicuously upon the exterior of the premises for which it is issued.
- H. Expiration of Building Permit.

The following regulations apply to expired building permits:

- ~~1. If the work described in any building permit has not begun within twelve (12) months from the date of issuance, the permit shall expire and be canceled by the Code Enforcement Officer/Zoning Administrator and written notice of the cancellation shall be given to the person affected.~~
1. If the work described in any building permit has not been substantially completed within *one (1) year* of the date of issuance, the permit shall expire and be canceled by the *Code Enforcement Officer/Zoning Administrator* and written notice of the cancellation shall be given to the person affected. Notice shall also state that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.
  2. A fee *equal to one half of the original fee amount shall be charged for the renewal* ~~shall not be charged for the first issue~~ of a *new* building permit as required per paragraph 1 ~~and 2~~ above.

**Section 4. Certificate of Occupancy/*Certificate of Compliance*.**

- A. Where a building permit is required, no building hereafter shall be erected or relocated, and no addition to or structural alteration to a building, shall be used or occupied for any purpose until a Certificate of Occupancy *or a Certificate of Compliance, as appropriate*, has been issued stating that the building and its proposed use comply with the provisions of this Ordinance. Only the owner, the holder of a written lease for at least one (1) year, or the proven legally constituted agent thereof, shall make application for such certificates.
- B. Whether or not a building permit may be required, a Certificate of Occupancy *or Certificate of Compliance* is required for each new use or change in use of any building or land. The use or changed use of any building or land shall not be undertaken and the building or land shall not be occupied for a new or changed use until a Certificate of Occupancy has been issued stating that the building or land and proposed new use or change in use complies with the provisions of this Ordinance.

- C. The *Code Enforcement Officer/Zoning Administrator* shall issue a Certificate of Occupancy *or Certificate of Compliance* within ten (10) days after any building erected, added to, or altered, or relocated, or proposed change in use of any building or land, shall have been finally approved as complying with the provisions of this Ordinance. Any new Certificate of Occupancy *or Certificate of Compliance* voids any certificate of a prior date for the same premises.
- D. A Certificate of Occupancy shall not be required for periods up to four (4) weeks for visiting camp vehicle or travel trailer temporarily parked upon the premises of a resident of the Town of Charlton.
- E. The *Code Enforcement Officer/Zoning Administrator* shall issue a Certificate of Occupancy *or Certificate of Compliance* for any lawfully existing non-conforming use and occupancy of the building and land only after the following three stipulations are complied with:
  - 1. The owner or his/her agent shall submit a written request for issuance of the certificate.
  - 2. The *Code Enforcement Officer/Zoning Administrator* shall verify the lawful nature of the existing nonconforming use and confirm that there are no violations of law or orders of the *Code Enforcement Officer/Zoning Administrator*, or Board of Appeals pending at the time of issuing such certificate.
  - 3. Approval by the Zoning Board of Appeals.
- F. A Certificate of Occupancy *or Certificate of Compliance* shall not be issued upon a building constructed upon a lot fronting on a street which is a part of a plot plan required to be approved by the Town Planning Board, except buildings constructed on lots which satisfy Section 280-1. (a-c) of Town Law, until such approval is obtained and the street is accepted as a Town road. This section shall not be effective against structures, the construction of which has been started and not abandoned as of the effective date of this section or upon which building permits have been issued.
- G. Notwithstanding any other provision of this Ordinance, a mobile home shall not be permitted, except as located in an approved mobile home park or on a temporary basis as permitted by Article VI, Section 3.C.

**Section 5. Building Inspector.**

A Building Inspector shall be appointed by the Town Board. The terms and compensation are to be set by the Town Board. The Building Inspector shall review all building permits and where applicable, see that the requirements of Local Law #3 of 1985 of the Town of Charlton and the NYS Energy Conservation Code are implemented.

## ARTICLE VI - ZONING BOARD OF APPEALS

### Section 1. Creation, Appointment, and Organization.

The Zoning Board of Appeals is hereby created in accordance with NYS Town Law. Said Board shall consist of five (5) members appointed by the Town Board. Members shall be residents of the Town of Charlton. The Town Board, by resolution, shall fix the members' terms so that one member's term shall expire at the end of each year for five (5) calendar years. At the expiration of each original member's appointment, the replacement member shall be appointed for a term of five (5) years. The Town Board shall annually designate the Chairman of the Board of Appeals, while the Board of Appeals shall annually designate its Secretary and may prescribe reasonable rules, consistent with the provisions of applicable Town Law, in addition to those provided herein for the conduct of its affairs. Each member shall have been a resident of the Town of Charlton for a period of at least three (3) years prior to the effective date of appointment, and no more than two (2) members shall reside in any one type of zoning district. All members are subject to removal by the Town Board for just cause after public hearing.

### Section 2. Procedures.

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by §267a of the Town Law and this Ordinance.

### Section 3. Powers and Duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this Ordinance which are more particularly specified as follows:

#### A. Interpretation and review.

To hear and decide on questions upon appeal from a decision or determination made by the *Code Enforcement Officer/Zoning Administrator* involving the interpretation of any provision of this Ordinance or on request by an administrative official, board or agency or property owner, to decide any of the following questions:

1. Determination of the meaning of any portion of the text of this Ordinance or of any conditions or requirements specified or made under the provisions of this Ordinance; or
2. Determination of the exact location of any district boundary shown on the Zoning Map; or
3. Determination of appeals from and review of any order, requirement, decision, or determination made by the *Code Enforcement Officer/Zoning Administrator*.

#### B. Variances.

Except as otherwise provided herein, to authorize, upon appeal from a decision of *the Code Enforcement Officer/Zoning Administrator* charged with the enforcement of the Ordinance, variances from the terms of this Ordinance. Variances may apply to the area, bulk, height and density requirements (area variance) or the use requirements (use variance) for a structure or parcel. The petitioner shall be the owner, lessee (with at least one year's duration) or proven, legally constituted agent thereof, of the parcel for which the variance is requested. The criteria to be applied by the Zoning Board of Appeals for review of each type of variance is as follows:

1. Use Variances.

No use variance shall be granted by the *Zoning* Board of Appeals without a showing by the Applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the Applicant shall demonstrate to the board of appeals that under the zoning regulations for the particular district where the property is located:

- a.) The Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- b.) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- c.) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d.) That the alleged hardship has not been self-created.

The *Zoning* Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

2. Area Variances.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- a.) Whether an undesirable change will be produced in the character of the neighborhood or the granting of the area variance will create a detriment to nearby properties;
- b.) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance;
- c.) Whether the requested area variance is substantial;
- d.) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- e.) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance; and
- f.) That the alleged difficulty was not created for monetary gain.

The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Variances granting an extension for an additional four (4) weeks beyond the time limits set in Article V, Section 4, Paragraph D for permits issued thereunder provided such an extension of the permit is not prejudicial to adjoining properties.
4. A variance may not be granted:
  - a.) To permit a commercial use or to expand a non-conforming use when such use is not the same or similar to a permitted use;
  - b.) To permit a commercial use or to expand a non-conforming use when such use is the same or similar to an exceptional use as listed in Article VII, Section 6 of this Ordinance; and
  - c.) To permit a commercial use, if the lot upon which the building(s) housing the use does not meet the area required for that use, or for similar uses not specifically permitted in any district.
  - d.) To permit an additional commercial use or to expand a non-conforming use unless the areas of the lot on which the uses(s) are to be conducted is equal to the total area which would be required for the use(s) as set forth in this Ordinance.

C. Temporary Certificates of Occupancy.

1. Upon petition from the owner of a parcel of land, a temporary Certificate of Occupancy may be granted for a mobile home, garage of twenty feet by twenty-four feet (20ft. x 24ft.) or larger, a capped cellar or basement, or uncompleted home as living quarters after public hearing, with written notice to the owners of any parcel of land located within twenty-five hundred (2,500) feet along the same or adjacent roads from the site of the proposed structure provided that the following criteria are met:
  - a.) The issuance of such certificate would not in the opinion of the Zoning Board of Appeals be prejudicial to adjacent or neighboring properties;
  - b.) The majority of the owners or lessees of at least a two (2) year lease of residential structures located within thirteen hundred (1,300) feet along the same or adjacent street or highway have signed a petition consenting to the issue of such certificate.
  - c.) The petitioner of such certificate shows sufficient concrete evidence of intent to construct a residence meeting all the requirements of this Ordinance upon the plot upon which the proposed temporary structure is to be located. Such evidence shall include proof of sufficient financial responsibility and resources to construct the proposed permanent residence structure and a building permit for such permanent residence. Any personal financial data or information supplied by the petitioner to the Zoning Board of Appeals in satisfaction of this paragraph which is not otherwise in the public domain or otherwise available to the general public shall not be made a part of the record of the petition or of the proceedings of the Zoning Board of Appeals and shall be returned to the petitioner without copying the same, and shall be treated as confidential and proprietary to the petitioner by the Zoning Board of Appeals.
2. The temporary Certificate of Occupancy, if granted, shall be for a period of not greater than twelve (12) months renewable after another hearing and the finding of compelling and

unusual circumstances why such certificate should be renewed for a period not to exceed one (1) twelve (12) month period. A written application for such an extension must be filed with the Zoning Board of Appeals on or before the ninetieth (90th) day before the expiration of the temporary Certificate of Occupancy. Such written application must contain reasons, other than lack of due diligence, for the applicant's inability to complete the construction of the house within the period of the temporary Certificate of Occupancy. The Zoning Board of Appeals shall render a decision in writing either granting or denying the application for extension on or before the sixtieth (60th) day before the termination of the temporary Certificate of Occupancy. In the event that an extension is granted, the extension shall begin to run from the expiration of the original temporary Certificate of Occupancy.

3. Within forty-five (45) days of an affirmative decision of the Zoning Board of Appeals and prior to the issuance of a temporary certificate, the owner shall install or have installed a permanent sanitary system for the permanent residence structure and shall have completed at least a complete set of footings or the pouring of a complete foundation slab for the permanent residence structure.
4. It is expected that construction of the home will be pursued with due diligence. The *Code Enforcement Officer/Zoning Administrator* shall make periodic inspections as required to ascertain the progress of construction. If construction is not being pursued with due diligence, such that completion for occupancy of the house cannot reasonably be expected prior to the expiration of the permit, the *Code Enforcement Officer/Zoning Administrator* shall promptly notify the Town Board and shall issue a warning notice to the holder of the temporary Certificate of Occupancy. This warning notice shall indicate that progression of construction is not being pursued and that the lack of progress may result in the mobile home, or temporary structure being removed on the expiration of the temporary permit even though the permanent dwelling is not ready for occupancy.
5. Upon the issuance of a Certificate of Occupancy of the permanent dwelling, the temporary Certificate of Occupancy as a residence or the extension, if any, shall expire. The mobile home or other temporary dwelling, other than a garage, shall be removed no later than sixty (60) days after the issuance of the Certificate of Occupancy.
6. Certificate of Occupancy for non-conforming uses as per Article IV, Section 5, Paragraph J.3.

#### **Section 4. Meetings.**

Meetings shall be held at the call of the Chairperson or at such other times as the *Zoning* Board of Appeals may determine. A quorum shall consist of a majority of the Board, which is required to be present in the conduct of its hearings. In acting upon all matters, the concurrence of a majority of the Board is required, except in acting upon applications for an exceptional use permit, a favorable vote of a majority, plus one (1) is required. In order to issue an interpretation, reverse a decision of the *Code Enforcement Officer/Zoning Administrator* or authorize a variance, an affirmative vote of a majority of the members shall be required. A favorable vote of a majority, plus one (1), shall also be required if the action taken is contrary to an advisory recommendation of denial received from the Saratoga County Planning Board, under the provisions of §239-m of the General Municipal Law. A unanimous vote of approval is needed to re-hear a previously denied application. The Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of its examinations and other official actions. All meetings of the Board of Appeals shall be open to the public.

## **Section 5. Application and Fee.**

All appeals and requests made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board of Appeals. All appeals shall be filed with the Zoning Board of Appeals within sixty (60) days of the action appealed from and shall be accompanied by the applicable fee in accordance with the fee schedule established by the Town Board. The applicant shall be the owner, lessee (with written lease of one (1) year or greater attached to the application), or legally constituted agent thereof. Every appeal or request shall refer to the specific provision of this Ordinance that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted. A submission of an original application with the original signature of the applicant plus eleven (11) copies of the application are required.

## **Section 6. Public Notice and Hearing.**

The Board shall fix a reasonable time and place for a public hearing on any such appeal or request of which hearing date the appellant shall be given notice and at which hearing he/she shall appear in person or by agent. Notice shall be provided by publishing, at least ten (10) calendar days prior to the date thereof, a legal notice in the official newspaper of the Town.

## **Section 7. Required Referral.**

A full statement of any appeal that meets the referral requirements of §239-m of the General Municipal Law shall also be referred not less than ten (10) days prior to the public hearing to the Saratoga County Planning Board. No action shall be taken by the Zoning Board of Appeals on such appeal until an advisory recommendation has been received from said Board or thirty (30) calendar days have elapsed since the County Board received the complete application.

At least ten (10) days before the date of the public hearing the secretary of the Zoning Board of Appeals shall transmit a copy of a complete application to the Planning Board, Town Counsel and the Environmental Conservation Commission of the Town of Charlton together with a copy of the notice of public hearing. Transmitted with the complete application shall be a request for the Town Counsel, Planning Board, and the Environmental Commission to submit to the *Zoning* Board of Appeals their written advisory opinions on the application or appeal. Written responses from the respective Boards, Commission, and Town Counsel shall be received prior to the public hearing and read into the record during the aforementioned public hearing.

## **Section 8. Decisions.**

Every decision of the Zoning Board of Appeals on an appeal or request shall be made within sixty-two (62) days of the close of the hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and shall contain a full record of the findings of fact upon which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the Office of the Town Clerk, within five (5) business days from the date of decision. The Zoning Board of Appeals shall also notify the *Code Enforcement Officer/Zoning Administrator*, and the Secretary of the Planning Board of its decision in each case. In addition, the Zoning Board of Appeals shall notify the Town Board and the Environment Conservation Committee of variances

and special use permits granted by the Board. ~~If applicable, a report on the action taken shall also be filed within seven (7) calendar days of said action with the Saratoga County Planning Board.~~

**Section 9. Attachment of Conditions.**

The *Zoning* Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. When granting a variance that contains special conditions, upon which the approval is based, the Zoning Board of Appeals shall include in the variance granted, a requirement that the petitioner appear before the Zoning Board of Appeals and present evidence of strict compliance with the special conditions. Such appearance shall be in a timely manner as agreed to by the Zoning Board of Appeals and the petitioner at the time the variance is granted. In the event of non-compliance with the conditions as specified, the Zoning Board of Appeals may rescind the variance. Such conditions shall be consistent with the spirit and intent of this Ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community. In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Ordinance, it shall be the duty of the Zoning Board of Appeals to attach such conditions and safeguards as may be in accordance with the spirit and intent of this Ordinance.

**Section 10. Effect of Appeal.**

Unless the *Code Enforcement Officer/Zoning Administrator* determines there exists an imminent peril to either life or property, an appeal stays all proceedings in furtherance by either the Town or appellant related to the action, which is the subject of the appeal.

**Section 11. Expiration of Approval.**

Unless construction or use is commenced and diligently pursued within twelve (12) months from the date of the granting of a variance, such variance shall become null and void without further hearing and notification by the Zoning Board of Appeals. Such period may be extended only by application to the *Zoning* Board of Appeals, which may grant after a public hearing, one (1) additional twelve- (12) month’s extension upon a showing of valid reasons why such extension of time is needed.

**Section 12. Strict Application of Provisions.**

All the provisions of this Ordinance relating to actions of the Zoning Board of Appeals shall be adhered to strictly. The Zoning Board of Appeals, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this Ordinance and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this Ordinance have been substantially observed, no applicant or appellant shall be deprived of the right of application or appeal.

~~**Section 13. Compliance with State Environmental Quality Review Act.**~~

~~The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA).~~



## ARTICLE VII. SPECIAL EXCEPTIONS TO DESIGNATED LAND USES

### Section 1. General Regulations.

Notwithstanding any other provision regarding land use as specified in this Ordinance, the Town Board, upon proper notice, public hearing, and the deliberation as to the manner in which the general public health, safety, and welfare is served, may grant to petitioners in specific instances exceptions to the otherwise permitted land use within the Residential-Agriculture, Agricultural and *Historic Overlay* Districts set forth herein. Such exceptions shall be *permitted through approval of an Exceptional Use Permit and shall be* subject to any conditions which the Town Board may prescribe, shall be individual in nature and based upon the merits of each case, and a determination by the Town Board that each exceptional usage:

- A. Will not substantially endanger the health, safety, morals, or general welfare of the neighborhood, nor adversely affect the environment.
- B. Is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities.
- C. That off-street parking spaces are adequate to handle expected public attendance.
- D. That the neighborhood character and surrounding property values are not substantially endangered.
- E. That exceptional use proposed will not cause undo traffic congestion or create a traffic hazard.
- F. That the exceptional use proposed is of such a nature that the determination as to whether or not it is allowed should be considered by the Town Board.
- G. That the requirements of Section 6 (below) are met.

Upon approval of an Exceptional Use Permit by the Board granting such permit, the applicant shall have a period of twelve (12) months within which to complete construction for which the permit was granted. Such period may be extended for one additional twelve- (12) month period by the Board granting the permit upon application and after a public hearing and upon a showing of valid reasons why such extension is needed.

### Section 2. Application for Special Exceptions

Application for obtaining approval for an Exceptional Use Permit shall be filed with the *Code Enforcement Officer/Zoning Administrator* by the owner, lessee (with written lease for at least one year's duration), or proven legally constituted agent of the owner, of the parcel for which the special exception is requested. The application shall be accompanied with a completely documented description of such use including maps, plans, and an adequate showing of why such use is in the best public interest. Such application and any supporting material shall be submitted in twelve (12) copies. It shall be definitive relative to location of the property and shall include a plot plan with dimensions to lot lines and other building locations, identification and location of neighboring properties and the significant characteristics of the property relative to the appeal. The applicant shall supply with the application the mailing addresses of all residences within the distance prescribed in Section 6 of this Article.

### Section 3. Review Procedure.

Upon presentation of such petition by the *Code Enforcement Officer/Zoning Administrator* to the Town Board, the Town Board may proceed as set forth in (A.) or (B.) below:

- A. Upon presentation of such petition by the *Code Enforcement Officer/Zoning Administrator* to the Town Board, the Town Board shall give due public notice, hold a public hearing and determine by majority vote, after the closing of the public hearing, whether the petition shall be granted. At the request of the Town Board, the members of the Zoning Board of Appeals shall be present at the public hearing. If present, the members of the Zoning Board of Appeals are authorized to ask questions they deem to be necessary. The Zoning Board of Appeals shall thereafter render to the Town Board an advisory opinion as soon as possible as to whether such permit should be granted, or
- B. The Town Board may direct the Zoning Board of Appeals, subject to conditions set forth in Section 6 of this Article, to provide a determination after due public notice, hearing and a vote of a majority, plus one of the Zoning Board of Appeals, and subject to all relevant provisions of this Ordinance whether such petition should be granted. Such determination by the Zoning Board of Appeals should be individually considered and shall be made in consideration of the public health, safety and welfare as delineated in Section 1 of this Article.

**Section 4. Referrals to Other Boards and Optional Site Plan Review.**

- A. The Board holding public hearings in accord with Section 3 of this Article, shall, at least ten (10) days prior to such hearings, transmit to the Town Counsel, Planning Board, and the Environmental Conservation Commission of the Town of Charlton a copy of the application, together with a copy of the notice of the public hearing, and shall request from the Town Counsel and each Board its advisory opinion on the application and each Board shall submit its opinion in writing prior to such public hearing.
- B. The Board holding the public hearing in accord with Section 3 of this Article may, either before the public hearing or as a result of the public hearing, require the applicant to submit a site plan for review by the Town of Charlton Planning Board before taking action on the application. When this requirement is made, the applicant shall follow the procedures for identifying, preparing, and submitting the site plan information as specified in Appendix B-5 (Site Plan Review). The Planning Board shall review the site plan information submitted and render to the Board holding the public hearing its findings as to the adequacy of the site plan for the intended use along with any comments the Planning Board has on the site plan information. The Board holding the public hearing in accordance with Section 3 of this Article shall consider the findings of the Planning Board in reaching its decision to approve or disapprove the application.

**Section 5. Compliance with Special Conditions.**

The Board holding the public hearing shall, when granting an Exceptional Use Permit which contains special conditions upon which the approval is based, include in the Permit granted a requirement that the petitioner appear before the Board and present evidence of strict compliance with the special conditions. Such appearance shall be in a timely manner as agreed to by the board granting the Permit and the petitioner at the time the Permit is granted. In the event of non-compliance with the conditions as specified, the Board granting the Permit may rescind the approval of the Exceptional Use Permit.

**Section 6. Consideration of Effect on Neighboring Properties.**

Upon referral of an application for Exceptional Use Permit to the Zoning Board of Appeals by the Town Board, the Zoning Board of Appeals may grant a permit for only the uses listed below in any Residential/ Agricultural, Agricultural *or Historic Overlay* District and shall consider the effect of the proposed exceptional use upon the properties within the number of feet specified below in all directions measured

from the boundary of the area actually occupied by such exceptional use (not the boundaries of the petitioner's total lands). Prior to a public hearing, the Board shall notify the owners of property within the prescribed distances.

~~A use not listed below is prohibited, but such use may be appealed to the Zoning Board of Appeals for a variance. If granted an Exceptional Use Permit must be obtained. ARTICLE IV, Section 4, Pg 32, paragraph N.1.applies here. An Exceptional Use Permit shall not be granted if in the opinion of the Board considering an application for the permit, it will create excessive waste, gases, liquids or effluents, or conditions of hazard, smoke, fumes, noise, vibration, odor, or dust, or will be detrimental to the health, safety, convenience, environment, economic, or general welfare of the people of the Town of Charlton.~~

A. Within fifteen hundred (1,500) feet:

- Banks
- Barber Shops and Beauty Salons
- Cemeteries
- *Domestic Lawn and Garden Equipment Sales and Service*
- Gasoline Filling Stations
- Golf Courses
- Hospitals
- Instructional Studios
- Private or Membership Clubs other than Gun Clubs
- Professional Buildings
- Restaurants and Ancillary Food Service Use for consumption of food and drink within the principal structure
- Retail Stores
- Undertaking Establishments
- *Solar Panels, Windmill or Wind Turbine Towers*

B. Within twenty-five hundred (2,500) feet:

- Animal Hospitals
- Kennels
- Mobile Home Parks
- Multiple Dwellings
- Riding Academies and Stables
- Natural Production Uses

## **Section 7. Yard, Area and Miscellaneous Requirements.**

The following requirements shall be incorporated by the Zoning Board of Appeals (when the Zoning Board of Appeals has jurisdiction) as conditions for the granting of any special exception land usage for the specified exceptional use:

A. Animal Hospitals:

1. Minimum lot area: 5 acres.
2. Minimum yard setback:
  - a.) Front: 100 feet.
  - b.) Side: 100 feet.
  - c.) Rear: 100 feet.
3. Minimum frontage: 100 feet.

4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 5,000 sq. feet.
6. Maximum building height: 30 feet.
7. Ratio of parking area to floor area: 3:1 (exclusive of kennel area).
8. Miscellaneous requirements:

Kennel area is to be screened with a five (5) foot high solid fence or two (2) parallel staggered rows of five (5) foot high evergreens (maintained in good condition) planted six (6) feet on center; foundation plantings to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit; building(s) adapted to house domestic pets shall be air-conditioned and of sufficient area to allow housing of such pets indoors with all exterior openings closed for noise reduction purposes. During prescribed daylight hours, however, not to exceed a period of four (4) hours per day, such pets may be allowed outdoors in enclosed runs for exercise purposes. Buildings housing animals shall be at least one hundred (100) feet from any residential structure on the property. Buildings shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials, which conform to the general character of the neighborhood.

**B. Banks:**

1. Minimum lot area: 2 acres.
2. Minimum yard setback:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 5,000 sq. feet.
6. Maximum building height: 30 feet.
7. Ratio of parking area to floor area: 3:1.
8. Miscellaneous requirements:

Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit; building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials which conform to the general character of the neighborhood.

**C. Barber Shops & Beauty Salons:**

1. Minimum lot area: 2 acres.
2. Minimum yard setback:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of use: 1,000 sq. feet.
6. Maximum building height: 30 feet.
7. Ratio of parking area to floor area: 600 sq. ft./Barber chair or Beauty station
8. Miscellaneous requirements:

Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of permit; building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials which conform to the general character of the neighborhood.

D. Cemeteries:

1. Minimum lot area: 5 acres.
2. Minimum yard setbacks:
  - a.) Front: 100 feet.
  - b.) Side: 100 feet.
  - c.) Rear: 100 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum building height: 30 feet.
6. Miscellaneous requirements:

Sufficient parking to be provided on the property to preclude parking on adjacent public rights-of-way.

E. Domestic Lawn and Garden Sales & Service:

1. Minimum lot area: 2 acres.
2. Minimum yard setbacks:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 2,000 sq. ft.
6. Maximum building height: 30 feet.
7. Miscellaneous requirements:

No exterior storage of vehicles or implements permitted unless screened with a six-(6) foot high solid fence or plantings of evergreens or shrubs at least six (6) feet high on not more than eight (8) foot centers. Screening along abutting yards of adjacent properties shall not be closer than three (3) feet or greater than ten (10) feet from the property line. In no case shall exterior storage be within one hundred (100) feet of any lot line; except for vehicles or implements less than five (5) feet high. No more than five (5) such vehicles or implements may be displayed during daylight hours no closer than twenty-five (25) feet to any lot line. Foundation plantings to render the site esthetically acceptable to the neighboring shall be provided as is prescribed with the granting of a permit. Sufficient parking is to be provided on the property to preclude parking on adjacent public rights-of-way. Building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards or other similar materials which to conform to the general character of the neighborhood.

F. Gasoline Filling Stations:

1. Minimum lot area: 2 acres.
2. Minimum yard setbacks:
  - a.) Front: 60 feet for a structure.
  - b.) Side: 50 feet minimum, 150 feet minimum total side yards for a structure.
  - c.) Rear: 100 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum building height: 20 feet.
6. Miscellaneous requirements:

All signs shall be erected to a maximum height of twenty (20) feet; building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards or other similar materials which conform to the general character of the neighborhood; pump islands may have a total maximum of two (2) pumps for each grade of gasoline dispensed and must be set back at least twenty-five (25) feet from highway right-of-way; pumps shall be visible along the highway carriage way on the same side of the highway a distance of two-hundred (200) feet and for a distance of two-hundred and forty (240) feet along the opposite side of the highway carriage way; all repair facilities must be indoors and a maximum of two (2) bays shall be permitted; no exterior accumulation of tires, cans, parts of vehicles or other by-products, or other refuse, or dumping of petroleum products or by-products shall be permitted; foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. No special car wash facility shall be permitted.

G. Golf Courses:

1. Minimum lot area: 85 acres.
2. Minimum yard setbacks:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum building height: 30 feet.
6. Miscellaneous requirements:  
Other restrictions as prescribed by the Board holding the public hearing.

H. Hospitals:

1. Minimum lot area: 10 acres.
2. Minimum yard setbacks:
  - a.) Front: 100 feet.
  - b.) Side: 100 feet.
  - c.) Rear: 100 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum building height: 30 feet.
6. Miscellaneous requirements:  
Off street parking shall be as follows - one (1) parking space for each of the following: Three (3) patient beds, excluding bassinets; staff or visiting doctor; intern; nurse; three (3) employees; three (3) student nurses; service vehicle. Three- (3) parking spaces for each examination room in clinics and outpatient department. Adequate unloading space must be provided. Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. Building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials, which conform to the general character of the neighborhood. Emergency room entrance to the building shall not be proximate to any highway. Other restrictions as prescribed by the Board holding the public hearing.

I. Instructional Studios:

1. Minimum lot area: 2 acres.
2. Minimum yard setbacks:

- a.) Front: 60 feet.
- b.) Side: 40 feet one, 100 feet total sides.
- c.) Rear: 50 feet.
- 3. Minimum frontage: 200 feet.
- 4. Minimum lot width: 200 feet.
- 5. Maximum floor area of building: 2,000 sq. ft.
- 6. Maximum building height: 30 feet.
- 7. Ratio of parking area to floor area: 3:1.
- 8. Miscellaneous requirements:
  - Exterior siding of wood, stone, brick, aluminum or vinyl clapboards or other similar materials which conform to the general character of the neighborhood. Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. Structure to be set back from lot lines the same as prescribed in the zoning schedule for private residences in Agriculture areas.

J. Kennels:

- 1. Minimum lot area: 2 acres.
- 2. Minimum yard distance:
  - a.) Front: 100 feet.
  - b.) Side: 100 feet.
  - c.) Rear: 100 feet.
- 3. Minimum frontage: 200 feet.
- 4. Minimum lot width: 200 feet.
- 5. Maximum building height: See misc. requirements below.
- 6. Miscellaneous requirements:
  - Sufficient parking to be provided on the property to preclude parking on adjacent public rights of way; foundation to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit; screening of kennel area to be a five (5) foot high solid fence or two (2) parallel staggered rows of five (5) foot high evergreens (maintained in good condition) planted six (6) feet on center; building(s) adapted to house animals shall be air conditioned and of sufficient area to allow housing of such animals indoors with all exterior openings closed for noise reduction purposes. During prescribed daylight hours, however, not to exceed a period of four (4) hours a day, the animals may be allowed outdoors in enclosed runs for exercise purposed. Building housing animals shall be at least one hundred (100) feet from any residential structure on the property. Exterior siding shall be of wood, brick, stone, aluminum or vinyl clapboards or other similar materials, which conform to the general character of the neighborhood.

K. Mobile Home Parks:

See Local Law # 3 of 1969 in Appendix B-2. Additionally, the following requirements also apply: Minimum area of thirty-thousand (30,000) sq. ft. per mobile home site; each mobile home site shall be provided with an aesthetically acceptable accessory storage building having an area of at least 5% of the area of the mobile home situated thereon but in no instance less than thirty-six (36) sq. ft. and a height of at least five (5) feet at the eaves.

L. Multiple Dwellings:

- 1. Minimum lot area: 30,000 sq. ft./dwelling unit and at least 5 acres.
- 2. Minimum yard distance:
  - a.) Front: 60 feet (Primary and accessory buildings).

- b.) Side: 50 feet for primary buildings, 25 feet for accessory buildings.
- c.) Rear: 50 feet for primary buildings, 25 feet for accessory buildings.
- 3. Minimum frontage: 300 feet.
- 4. Minimum lot width: 300 feet.
- 5. Maximum floor area of building: Dependent on number of dwelling units—see misc. requirements below.
- 6. Maximum building height: 30 feet for primary buildings, 20 feet for accessory buildings.
- 7. Ratio of parking area to floor area: 400-sq. ft/dwelling unit
- 8. Miscellaneous requirements:
  - Parking lots shall be screened with a five (5) foot high solid fence or two (2) parallel staggered rows of five (5) foot high evergreens (maintained in good condition) planted six (6) feet on center. Vehicular access will be provided not less than two hundred (200) feet from the entrance to all dwelling units. Area of individual dwelling units shall be minimum of five-hundred (500) sq. ft. and a maximum of one-thousand (1,000) sq. ft. Accessory buildings shall have a maximum height of twenty (20) feet and shall have a minimum distance of sixty (60) feet to the front lot line and twenty-five (25) feet to each of the side and rear lot lines. Approval of water supply and sewage disposal by the *Code Enforcement Officer/Zoning Administrator*, the Town Engineer and the New York State Department of Health shall be mandatory. Exterior siding shall be of wood, stone, brick, aluminum, vinyl clapboards, or other similar materials, which conform to the general character of the neighborhoods.

M. Natural Production Uses:

- 1. Minimum lot area: 10 acres.
- 2. Minimum yard distance:
  - a.) Front: 100 feet.
  - b.) Side: 100 feet.
  - c.) Rear: 100 feet.
- 3. Minimum frontage: 200 feet.
- 4. Minimum lot width: 200 feet.
- 5. Maximum building height: 30 feet.
- 6. Miscellaneous requirements:
  - Excavation sites for sand, gravel, clay, shale, or topsoil shall meet the following conditions: The slope of material in any excavation or pit shall not exceed normal limited angle of repose of such material. Both base and top of such slope shall not be nearer than 100 feet to any street or property line.

N. Private or Membership Club:

- 1. Minimum lot area: 15 acres.
- 2. Minimum yard distance:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
- 3. Minimum frontage: 200 feet.
- 4. Minimum lot width: 200 feet.
- 5. Maximum building height: 30 feet.
- 6. Miscellaneous requirements:
  - If building is within five hundred (500) feet of the highway, exterior siding call is of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials, which conform to the general character of the neighborhood. Foundation plantings and/or screening to render the site

aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. Other restrictions shall be as prescribed by the Board hearing the appeal.

O. Professional Buildings:

1. Minimum lot area: 2 acres.
2. Minimum yard distance:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 5,000 sq. ft.
6. Maximum building height: 30 feet.
7. Ratio of parking area to floor area: 3:1.
8. Miscellaneous requirements:

Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit building shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials which conform to the general character of the neighborhood.

P. Restaurant, *Banquet Facility* and Ancillary Food Services:

1. Minimum lot area: 2 acres.
2. Minimum yard distance:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 5,000 sq. ft.
6. Maximum building height: See Section 10 on p. 71.
7. Ratio of parking area to floorage: 3:1.
8. Miscellaneous requirements:

Parking lots shall be screened with a five (5) foot high solid fence or two (2) parallel staggered rows of five (5) foot high evergreens (maintained in good condition) planted six (6) feet on center. Foundation plantings and/ or screenings to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. Building exterior shall have siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials, which conform to the general character of the neighborhood.

Q. Retail Stores:

1. Minimum lot area: 2 acres.
2. Minimum yard distance:
  - a.) Front: 60 feet.
  - b.) Side: 40 feet for one side yard, 100 foot total for both side yards.
  - c.) Rear: 50 feet.
3. Minimum frontage: 200 feet.
4. Minimum lot width: 200 feet.
5. Maximum floor area of building: 2,000 sq. ft.
6. Maximum building height: 30 feet.

7. Ratio of parking area to floor area: 2:1.

8. Miscellaneous requirements:

Building exterior shall have siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials, which conform to the general character of the neighborhood. No unscreened external storage of merchandise refuse, garbage cans, or other similar by products or delivered food and other supplies. Foundation plantings and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit. Parking areas shall be screened with a five (5) foot high solid fence or two (2) parallel staggered rows of five (5) foot high evergreens (maintained in good condition) planted six (6) feet on center.

R. Riding Academies: ~~and stables:~~

*Riding academies must comply with the NYS Agriculture and Market Regulations.*

1. Minimum lot area: 15 acres.

2. Minimum yard setback:

a.) Front: 125 feet.

b.) Side: 100 feet.

c.) Rear: 100 feet.

3. Minimum frontage: 200 feet.

4. Minimum lot width: 200 feet.

5. Maximum building height: 40 feet.

6. Miscellaneous requirements:

*A maximum of twelve (12) horses are allowed on 15 acres.* One (1) acre of land, in addition to the minimum requirement of 15 acres, shall be required for each adult horse, pony or other saddle animal. Adequate parking shall be provided so as to not regularly require parking in adjacent public rights of way. Any building within five hundred (500) feet of the highway shall have exterior siding of wood, stone, brick, aluminum or vinyl clapboards, or other similar materials with conform to the general character of the neighborhood. Foundation planted and/or screening to render the site aesthetically acceptable to the neighborhood shall be provided as is prescribed with the granting of a permit.

S. *Stables Used for the Boarding of Horses:*

1. *Minimum lot area: 7 acres.*

2. *A maximum of 4 horses may be kept on 7 acres. One (1) acre of land, in addition to the minimum requirement of 7 acres, shall be required for each additional horse.*

3. *Stables used for the boarding of horses must comply with the NYS Agriculture and Market Regulations.*

T. Undertaking Establishments:

1. Minimum lot area: 2 acres.

2. Minimum yard distance:

a.) Front: 60 feet.

b.) Side: 40 feet for one side yard, 100 foot total for both side yards.

c.) Rear: 50 feet.

3. Minimum frontage: 200 feet.

4. Minimum lot width: 200 feet.

5. Maximum area of building: 8,000 sq. ft.

6. Maximum building height: 30 feet.

7. Ratio of parking area to building area: 3:1.

8. Miscellaneous requirements:

Building exterior should be of wood, stone, brick, aluminum or vinyl clapboards or other similar materials, which conform to the general character of the neighborhood. Foundation plantings and/or screening shall be provided as is prescribed with the granting of a permit.

*U. Bed and Breakfast Establishments:*

- 1. Allowed only in the R/A, A and Historic Districts*
- 2. There shall be a 5 guest room limit*
- 3. Guests may not use the B&B as a permanent address (address for voting, driver's license).*
- 4. Each Bed & Breakfast must comply with all applicable New York State laws and building codes and must meet the requirements in the NYS Dept of State "Fire Code of NYS"*
- 5. The septic system must be certified by a licensed engineer to be adequate for the maximum number of lodgers allowed plus the owner(s)/manager(s) in residence.*
- 6. Adequate parking shall be provided so as to not regularly require parking on adjacent public rights of way.*

**Section 8. Other Requirements.**

The foregoing criteria are minimum conditions, which must be met in any plans submitted with an application for an exceptional use permit. Such permit may be granted contingent upon the meeting of any other reasonable requirements which the Board of Appeals may deem necessary to protect the environment, maintain property values, preserve the health, safety and welfare of the people of the Town of Charlton and achieve the effect intended by the imposition of the foregoing considered as general qualifications.

~~**Section 9. Provision for Sanitary Facilities.**~~

~~All commercial and business uses to which the public is invited as guests, customers or visitors shall have adequate sanitary facilities in accordance with "New York State Standards for Waste Treatment Works for Institutional and Commercial Facilities."~~

**Section 910. Lot Area and Yard Dimensions.**

Unless otherwise specified all structures for which Exceptional Use Permits are granted shall meet lot area and yard dimensions specified in Table IV-2 for residential structures in Agriculture Districts.

**Section 101. More Than One Use.**

A permit shall not be issued nor shall the Zoning Board of Appeals be empowered to order the issuance of such permit for a parcel of land to be used for more than one (1) principal use (other than for the use of a residence and one other use both of which are permitted by law or Ordinance to use, and which actually do use, a single sanitary system) unless such parcel has the sum of the required area and frontage for all uses for which said parcel is to be used as required by this Ordinance.

**Section 112. Failure to Continue to Comply.**

Failure of any petitioner, his successors or assigns, to continue compliance with any conditions imposed by the granting board upon any special exception shall be a violation of this Ordinance subject to any and all penalties and actions resulting therefore.

**Section 123. Other Conditions.**

Exceptional Use Permits granted pursuant to Article VII shall be considered in the same category and subject to the same conditions set forth in Article IV, Section 6 of this Ordinance regarding extension, alteration, time for completion, and abandonment, as for nonconforming uses.

~~**Section 14. Compliance with State Environmental Quality Review Act.**~~

~~The board acting upon the special exception permit shall comply with the provisions of the State Environmental Quality Review Act (SEQRA).~~

## **ARTICLE VIII. VIOLATIONS AND PENALTIES**

The owners or general agent of a building or premises where a violation of any provision of this Ordinance has been committed or shall exist, or the lessee or tenant of any building or any premises where such violation has been committed or shall exist, or the general agent, architect, building contractor, or any other person who commits, permits, takes part or assists in such violation of any provision of this Ordinance, or who maintains any building or premises or any part thereof in which any violation shall exist, shall be guilty of an offense punishable by a fine not exceeding *five-hundred dollars (\$500)* ~~*fifty dollars (\$50.00)*~~ or imprisonment for a period not to exceed 6 months or both, and of a misdemeanor as specified and for the purposes set forth in Paragraph 268 of Town Law, as amended. Each week of continued violation after notice thereof shall have been given as herein provided, shall constitute a separate violation. Such notice shall be in writing signed by the *Code Enforcement Officer/Zoning Administrator* and shall be served upon the person or persons committing such violation either personally or by mail addressed to such person or persons at his or her last known address. In addition thereto, the Town authorities shall have such other remedies as are provided by law to restrain, effect or abate any violation of this Ordinance.

## **ARTICLE IX. AMENDMENTS**

The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Board of Appeals, after public notice and public hearing, amend, supplement, change, modify or repeal this Ordinance, pursuant to the provisions of the Town Law applicable thereto. Every such proposed amendment or change whether initiated by the Town Board, the Town Counsel, or by petition shall be referred to the Zoning Board of Appeals, Town Planning Board, and the Town Environmental Conservation Commission for an advisory opinion prior to public hearing thereon.

## **ARTICLE X. SEVERABILITY**

If any section, paragraph, subdivisions clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provisions thereof other than the part so declared to be invalid or unconstitutional.

## **ARTICLE XI. EFFECTIVE DATE**

This Ordinance shall become effective by its publication and posting as set forth in Section 264 of Town Law.

## **ARTICLE XII. REPEAL OF PRIOR ORDINANCE**

Upon the effective date of this amended Ordinance, any inconsistent provisions of the Town of Charlton Zoning Ordinance adopted *November 13, 2000, April 16, 1973*, and all amendments thereto are hereby repealed subject to the provisions of Article I, Section 3, herein.

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**APPENDIX A — ZONING MAP**

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**APPENDIX B — OTHER LOCAL LAWS AND ORDINANCES**

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## Appendix B-1

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

**ORDINANCE #8  
June 1, 1967**

AN ORDINANCE PROVIDING FOR THE REMOVAL OR REPAIR OF BUILDINGS AND COLLAPSED STRUCTURES IN RESIDENTIAL RI AND R2 AND AGRICULTURAL DISTRICTS OF THE TOWN OF CHARLTON, THAT FROM ANY CAUSE, MAY NOW BE OR SHALL HEREAFTER BECOME DANGEROUS OR UNSAFE TO THE PUBLIC.

NOW ON MOTION of Councilman Murray and seconded by Justice Plummer, the Town Board of the Town of Charlton hereby ordains as follows:

BE IT RESOLVED AND ORDAINED, that following a public meeting held in the Town of Charlton on June 1, 1967 at 7:30 o'clock P.M., pursuant to notice published as required by law, The Town of Charlton, acting through its constituted Town Board an pursuant to the authority conferred by Section 130, Subdivision 16 of the Town Law of the State of New York, ORDAINS AS FOLLOWS:

**SECTION 1.** This ordinance may be known and cited by the following short title: AN ORDINANCE PROVIDING FOR THE REMOVAL OR REPAIR OF BUILDINGS AND COLLAPSED STRUCTURES IN RESIDENTIAL RI AND R2 AND AGRICULTURAL DISTRICTS OF THE TOWN OF CHARLTON THAT, FROM ANY CAUSE, MAY NOW BE OR SHALL HEREAFTER BECOME DANGEROUS OR UNSAFE TO THE PUBLIC.

**SECTION 2.** Upon receipt of notice by the Town Board that any building or structure within the Residential RI or R2 districts of the Town, or if not within a residential district, is within 300 feet of a residence, home or dwelling other than that occupied by the owner or occupant of the land on which the unsafe building or structure is located is dangerous or unsafe to the public, the Town Board shall appoint an official of the said Town to be designated the Town Board to make an inspection of such building or structure and report in written thereon to said Town Board.

**SECTION 3.** Upon receipt of said report the Town Board shall examine the same and if it appears to the Town Board that said building or structure may be dangerous or unsafe to the public, the Town Board shall cause written notice, Certified Mail/Return Receipt Requested, to be served on the owner thereof or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in same, either personally or by registered mail, addressed to the last known address if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other persons having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the Office of the County Clerk or County Register, containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring same to be made safe and secure or removed; and if such service be made by registered mail, a copy of such notice shall be posted upon said premises.

**SECTION 4.** Within ten (10) days after service of said notice, or mail returned undelivered as herein above provided the owner of said building or structure shall commence the removal or repair thereof and thereafter diligently continue with such removal or repair to the end that the same be completed within the most expeditious time after receipt of such notice.

**SECTION 5.** In the event of the neglect or refusal of said owner to comply with the aforesaid notice, a survey of the premises shall be made by an inspector and an architect to be named by the Town Board, and a practical builder, engineer or architect appointed by the person notified as above, and that in the event of the failure or refusal of the person so notified to appoint such surveyor, the two surveyors named shall make the survey and report; that the practical builder, engineer or architect to act for the said owner shall be designated by the said owner within ten (10) days after the service of the notice upon him and such owner within such time notify the Town Clerk of the name of the person so designated and such person shall at all times be expected to cooperate with the inspector and architect named by the Town Board as aforesaid. The notice shall state that in the event the building or other structure shall be reported unsafe or dangerous under such survey, that an application will be made at a special term of the Supreme Court in the judicial district in which the property is located for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

**SECTION 6.** A report of the survey on the building or buildings, signed by the persons making the report, and setting forth in full their findings with respect to said building or buildings and the compensation of such surveyors shall be posted by the Town Clerk upon the said building or buildings within five (5) days after the receipt of such report by the Town Clerk.

**SECTION 7.** The Town shall be reimbursed for the cost of work performed or services rendered, by and levy upon the lot or parcel of land upon which such work was performed or such service rendered. The expense so assessed shall constitute a lien and charge on such real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at same time as other town charges.

**SECTION 8.** This ordinance shall take effect upon publication and posting in the manner prescribed in the Town Law.

## Appendix B-2

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #3  
of the Year 1969

A LOCAL LAW RELATING TO MOBILE HOMES, MOBILE HOME PARKS,  
AND TRAILER CAMPS IN THE TOWN OF CHARLTON

Section 1.1 TITLE — This local law shall be known as the MOBILE HOME PARKS AND TRAILER CAMPS LOCAL LAW of the Town of Charlton.

Section 2.1 PURPOSE — The purpose of this local law is to promote the health, safety, morals and general welfare of the community, including the protection and preservation of the property of the Town of Charlton and of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers, and trailer camps.

Section 3.1 DEFINITIONS — For the purpose of this local law, the following words, terms, and phrases shall have the meaning as scribed to them in this section.

1. "Mobile Home" — A mobile home is any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used, and capable of being used as a detached single family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems. The above definition shall also cover mobile homes comprised of two (2) or more sections which may be transported separately.
2. "Licensee" — Means any person licensed to operate and maintain a mobile home park or trailer camp.
3. "Mobile Home Park" — Means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
4. "Mobile Home Space" — Means a plot of ground within a mobile home park designed for the accommodation of one mobile home.
5. "Trailer Camp" — Means any parcel of land which is planned and improved for the placement of two (2) or more travel trailers which are used as

temporary living quarters and for occupancy of not more than ninety (90) consecutive days.

6. "Travel Trailer" — Means any portable vehicle which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational, or vacation purposes, and which may or may not include one or all of the accommodations and facilities included in a mobile home.
7. "Person" — Means any natural individual, firm, trust, partnership, association, or corporation.
8. "Health Officer" — Means the Town Health Officer or State Health Officer.
9. "Authorized Agent" — Means a health officer, sanitary inspector, or any other properly qualified person who is delegated to function within specific limits as the agent of the Town Board.
10. "Mobile Home Owner" — Means (a) any person who has the title to a mobile home; and (b) any person who is purchasing a mobile home under a contract and who has not yet acquired legal title.

#### Section 4.1 LICENSES REQUIRED FOR MOBILE HOME PARKS AND TRAILER CAMPS

Any person, partnership, association, or corporation, being the owner of any land within the Town of Charlton shall not use or allow the use of such land for a mobile home park or trailer cam unless a license has been obtained as herein provided.

#### 4.2. ISSUANCE OF LICENSE

4.21 The Town Clerk of the Town of Charlton shall issue a license to be effective from the day of issuance to and including December 31st of that same year.

4.22 This license will not be issued until the Town Clerk has received:

1. A written application in accordance with Section 5.1 from the applicant.
2. The required fee as herein provided.
3. Approval of the application by the Saratoga County Department of Health (or the New York State Department of Health District Office).
4. A resolution from the Town Board approving issuance of the license.

4.23 This license shall not be transferable or assignable.

#### 4.3 SUPPLEMENTAL LICENSE

4.31 Any person, holding a license for a mobile home park or trailer camp and desiring to add additional lots to such park or camp, shall file an application for a supplemental license.

- 4.32 The application for a supplemental license shall be filed and handled according to the procedure established in Section 4.2 of this local law.
- 4.33 When approved and upon the receipt of the required fee, the Town Clerk shall issue a supplemental license which will be effective from the date of issuance to and including December 31st of the same year.

4.4 LICENSE RENEWAL

- 4.41 An application for the renewal of any mobile home park or trailer camp which was issued in accordance with the provisions of this local law, must be filed with the Town Clerk on or before December 1st preceding the expiration of the license.
- 4.42 The renewal application shall not be accompanied by a plan of the park or camp unless changes have been made to it.
- 4.43 Upon the approval of the Zoning Administrator and by resolution of the Town Board, the Town Clerk shall issue a renewal license to be effective upon the expiration of the previous license and continue in force for a period of one year.
- 4.44 At the time the renewal license is issued, the applicant shall pay the required fee.
- 4.45 Such renewal license shall not be transferable or assignable.

4.5 LICENSE FEES

- 4.51 The applicant shall pay the Town Clerk an annual fee equal to the sum of fifty dollars (\$50), plus ten dollars (\$10) multiplied by the number of lots authorized by the license.
- 4.52 The fee for a supplemental license shall be computed and determined in the same manner.

Section 5.1 APPLICATION PROCEDURE

Each application for a mobile home park or trailer camp license shall be in writing and signed by the applicant.

- 5.2 The application and related information as required in Section 6.1 shall be filed with the Town Clerk in triplicate.
- 5.3 The Town Clerk shall transmit one copy of the application to the Town Zoning Administrator. The Town Clerk shall refer one copy of the application to the Town Planning Board for review and report prior to final action by the Town Board in accordance with the provisions of Section 274 of the Town Law. The Town Clerk

shall place a notice in the newspaper or newspapers designated by the Town Board to the effect that such an application has been filed.

- 5.4 The Zoning Administrator shall check the application for compliance with the minimum requirements as established by the rules and regulations of the New York State Department of Health, the Saratoga County Department of Health, the Town of Charlton and the Sanitary Code of the State of New York. The Zoning Administrator shall, after such investigation, transmit the certified application to the Town Board together with his written findings as to whether the application satisfies or does not meet the minimum health and sanitary standards within thirty (30) days after the date of filing the application with the Town Clerk.
- 5.5 Upon receipt of the application from the Town Clerk, the Planning Board shall review the general arrangement of the mobile home park or trailer camp. This shall include a review of: location and width of streets, the location, size and arrangement of lots; the location of other structures within the park or camp; the location of entrances and exits; and the location, type and extent of landscaping and screening materials. The Planning Board shall transmit the application back to the Town Board, together with its written findings, within thirty (30) days of receipt of the applications. Failure to act within thirty (30) days of receipt of the application shall be deemed approval.
- 5.6 The Town Board shall review the findings of the Zoning Administrator and the Planning Board, and by resolution indicate its approval or disapproval of the application, within sixty (60) days of the date of filing the application with the Town Clerk. The application shall be returned to the Town Clerk, and the applicant(s) notified in writing by the Town Clerk of the decision rendered within five (5) days of the date of such decision.
- 5.7 If the application is disapproved, the applicant(s) shall have the right to appear before the Town Board for a hearing.

## Section 6.1 APPLICATION DATA

Each application shall be accompanied by three complete sets of plans which are prepared by a licensed land surveyor or licensed engineer. The plans shall be drawn to a scale of 20, 40, or 50 feet to one inch; shall include the date, north point, and scale; and shall furnish the following information:

### 6.2 REQUIRED DATA

- a. The name and address of the applicant; or the name and address of each partner of the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.
- b. The location and description of the land that is proposed to be used as a mobile home park or trailer camp.
- c. The number of lots to be provided in such park or camp.

### 6.3 PHYSICAL FEATURES

- a. Contours at two-foot intervals.
- b. Location of water courses, marshes, and areas subject to flooding.
- c. Wooded areas.

### 6.4 EXISTING DEVELOPMENT

- a. A location map which shows all land within five hundred (500) feet of the proposed park or camp, and all structures on the land which abuts the proposed park or camp.
- b. The location, names and widths of all adjacent streets.
- c. The location of all water lines and utilities within and adjacent to the proposed site.

### 6.5 PROPOSED DEVELOPMENT

- a. The location and widths of all entrances, exits, streets and walkways.
- b. The location, size and arrangement of each lot within the park or camp.
- c. The method and plan for electric lighting.
- d. The location and plan of all proposed structures and improvements.
- e. Any proposed grading ad plans for landscaping.
- f. Any proposed storm water drainage.
- g. All utilities, including sewage disposal, water system.
- h. Any public improvements proposed by the Town in or adjoining the proposed park or camp.
- i. Existing zoning.
- j. Proposed street names (existing street names in the Town should not be duplicated).

## Section 7.1 REQUIREMENTS FOR MOBILE HOME PARKS

### 7.2 SITE

- 7.2.1 The park shall be located in areas where grades and soil conditions are suitable for use as mobile home sites.
- 7.2.2 The park shall be located on a well-drained site, which is properly graded to insure rapid drainage and be free at all times from stagnant pools of water.
- 7.2.3 The park shall be free from heavy or dense growth of brush.
- 7.2.4 The park shall be at least ten (10) acres in size, 100 feet frontage on a public road.

### 7.3 MOBILE HOME LOT

- 7.3.1 Each mobile home park shall be marked off into mobile home lots.
- 7.3.2 The total number of mobile home lots in a mobile home park shall not exceed four (4) per gross acre.
- 7.3.3 Each mobile home lot shall have a total area of not less than 5,000 square feet with a minimum dimension of fifty (50) feet.
- 7.3.4 Maximum lot coverage shall be 25%.

7.4 MOBILE HOME

- 7.4.1 Any mobile home shall not be parked or otherwise located nearer than a distance of:
  - a. At least thirty (30) feet from an adjacent mobile home in any direction.
  - b. At least one hundred twenty-five (125) feet from an adjacent property line.
  - c. At least one hundred (100) feet from the right-of-way line of a public street or highway.
  - d. At least ten (10) feet from the nearest edge of any roadway location within the park.
- 7.4.2 Only one mobile home shall be permitted to occupy any one mobile home lot.

7.5 MOBILE HOME STAND

- 7.5.1 Each mobile home lot shall have a mobile home stand, which will provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures, and the retention of the home on the lot in a stable condition.
- 7.5.2 The stand shall be of sufficient size to fit the dimensions of the anticipated mobile homes and their appurtenant structures or appendages.
- 7.5.3 The stand shall be constructed of an appropriate non-porous material, which is durable and adequate for the support of the maximum anticipated loads.
- 7.5.4 The stand shall be suitably graded to permit rapid surface drainage.

7.6 ACCESSIBILITY

- 7.6.1 Each mobile home park shall be easily accessible from an existing public highway or street

- 7.6.2 Where a mobile home park has more than sixteen (16) mobile homes, two (2) points of entry and exit shall be provided, but in no instance shall the number of entry and exist points exceed four (4).
- a. Such entrances and exists shall be designed and strategically located for the safe and convenient movement into and out of the park, and to minimize friction with the free movement of traffic on a public highway or street.
  - b. All entrances and exits shall be at right angles to the existing public highway or street.
  - c. All entrances and exits shall be free of any material, which would impede the visibility of the driver on a public highway or street, or on a roadway in the mobile home park or trailer camp.
  - d. All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.

7.6.3 Each park shall have improved streets to provide for the convenient access to all mobile home lots and other important facilities within the park. Streets shall be improved to at least meet the requirements of Local Law #2 of the Year 1969, "Acceptance of Town Highways".

- a. The street system shall be so designed to permit the safe and convenient vehicular circulation within the park.
- b. Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
- c. All streets shall intersect at right angles.

7.6.4 An improved driveway shall be provided for each mobile home lot. This driveway shall have a minimum width of none (9) feet.

## 7.7 PARKING

7.7.1 One off-street parking space shall be provided on each mobile home lot. The parking space shall be of similar construction and grading as the mobile home stand. Such space shall have a minimum width of nine (9) feet and a minimum length of thirty (30) feet.

7.7.2 Additional off-street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles.

- a. There shall be one parking space for each two (2) mobile home lots within the park.
- b. Such parking shall be provided in bays, which shall provide for adequate maneuvering space.

## 7.8 UTILITIES AND SERVICE FACILITIES

- 7.8.1 All gas, electric, telephone, cable television, sewer and water utilities shall be located underground.
- 7.8.2 The following utilities and service facilities shall be provided in each mobile home park which shall be in accordance with the regulations and requirements of the Saratoga County Department of Health, New York State Department of Health and the Sanitary Code of New York State.
- a. An adequate supply of potable water for drinking and domestic purposes shall be supplied by pipes from a central system to all mobile home lots and buildings within the park to meet the requirements of the park. Each mobile home lot shall be provided with proper water connections.
  - b. Each mobile home lot shall be provided with a sewer, which shall be connected to the mobile home situated on the lot, to receive the waste from the shower, tub, flush toilets, lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Any private sewer system shall be designed, installed and maintained in accordance with Section 7, New York State Sanitary Code as applied by the New York State Department of Health except that any mobile home park containing in excess of 25 mobile home spaces shall use an Extended Aeration Sewage Treatment Plant designed, installed and maintained in accordance with the New York State Sanitary Code as applied by the New York State Department of Health for sewage disposal. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.
  - c. Garbage cans with tight fitting covers shall be provided on each site in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that such cans shall not overflow.
  - d. Enclosed storage space equivalent to 160 cubic feet for each mobile home shall be provided. This space may be provided on the mobile home lots or centrally located but not more than 200 feet from the lot it is intended to serve.
- 7.8.3 Service buildings shall be provided as deemed necessary for the normal operation of the park, however, such buildings shall be maintained by the owner or manager of the park in a clean, sightless and sanitary condition.

- 7.8.4 Each mobile home lot shall be provided with weatherproof electric service connections for 110/120-volt service and outlets, which are a type approved by the New York State Board of Fire Underwriters.
- 7.8.5 Each mobile home park shall be provided with at least one public telephone per twenty-five (25) trailers.

7.9 OPEN SPACE

- 7.9.1 Each mobile home park shall provide common open space for use by the occupants of the park in the amount of 100 square feet for each dwelling unit served by the commons. Such space shall be arranged so that direct access is provided to the commons from each mobile home lot for which it serves.
- 7.9.2 Two (2) acres for each 100 dwelling units shall be set aside and provided with picnic sites and space for organized games such as softball, horseshoes, shuffleboard, etc.

7.10 LANDSCAPING

- 7.10.1 Lawn and ground cover shall be provided on those areas not used for placement of mobile homes and other buildings, walkways, roads and parking areas.
- 7.10.2 Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the mobile homes and other facilities.
  - a. Screen planting shall be provided to screen objectionable views. Views, which shall be screened, include non-residential uses, garbage storage and collection areas, and all abutting yards of adjacent properties.
  - b. Screen planting shall be provided along those areas within the park which fronts upon existing public highways and streets to reduce glare and provide pleasant outlooks for living units.
  - c. Screen plantings shall be living evergreen trees or shrubs at least 6 feet high on not more than 8-foot centers. Screening along abutting yards of adjacent properties shall not be closer than 3 feet or greater than 10 feet from the property line.

7.11 REGISTER ER OF OCCUPANTS

It shall be the duty of each licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- a. The name and address of the owner of each mobile home and motor vehicle.
- b. The make, model, year and license number of each mobile home and motor vehicle.
- c. The date of arrival and departure of each mobile home.
- d. The state, territory or country issuing such licenses.
- e. The names age and address of each mobile home occupant.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

## Section 8.1 REQUIREMENTS FOR TRAILER CAMPS

### 8.2. SITE

The provisions found in Section 7.2 shall apply.

### 8.3 TRAILER LOT

8.3.1 Each trailer camp shall be marked off into trailer lots.

8.3.2 The total number of trailer lots in such camp shall not exceed ten (10) per gross acre.

8.3.3 Each trailer lot shall have a total area of not less than 2,500 square feet with a minimum dimension of thirty (30) feet.

### 8.4 TRAVEL TRAILER

8.4.1 Any travel trailer shall not be parked or otherwise located nearer than a distance of:

- a. At least twenty (20) feet from an adjacent travel trailer in any direction.
- b. The provision found in Section 7.4(b) shall apply.
- c. The provision found in Section 7.4(c) shall apply.
- d. The provision found in Section 7.4(d) shall apply.

8.4.2 Only one (1) trailer shall be permitted to occupy any one (1) trailer lot.

### 8.5 TRAVEL TRAILER STAND

8.5.1 Each trailer lot shall have a travel trailer stand which will provide for the practical placement on and removal from the lot of the travel trailer, and the retention of the trailer on the lot in a stable condition.

8.5.2 The stand shall be of sufficient size to fit the dimensions of the anticipated travel trailers.

8.53 The stand shall be constructed of an appropriate material, which is durable, compacted and adequate for the support of the maximum anticipated loads.

8.5.4 The provision found in Section 7.54 shall apply.

## 8.6 ACCESSIBILITY

The provisions found in Section 7.6 shall apply.

## 8.7 PARKING

The provisions found in Section 7.7 shall apply.

## 8.8 UTILITIES AND SERVICE FACILITIES

8.8.1 The following utilities and service facilities shall be provided in each trailer camp which shall be in accordance with the regulations and requirements of the Saratoga County Department of Health and Section 7 of the Sanitary Code of the New York State as applied by the New York State Department of Health.

- a. Each trailer camp, which provides for travel trailers having all the facilities of a mobile home as defined in Section 3.1 of this local law, shall provide the required facilities indicated in Section 7.8.1 (a) and (b).
- b. Each trailer camp, which provides for travel trailers not equipped with the facilities in a mobile home as defined in Section 3.1 of this local law, shall provide the following facilities:
  - 1) An adequate supply of potable water for drinking and domestic purposes shall be supplied by pipes from a central system to all buildings and trailer lots within the camp to meet the requirements of such camp. Each lot shall be provided with a cold water tap, the waste from which shall be emptied into a drain connected to an approved disposal system.
  - 2) Toilet and other necessary sanitary facilities for males and females shall be provided in permanent structures. Such facilities shall be separated by sound-proof walls. The male and female facilities shall be marked with appropriate signs and have separate entrances for each.
  - 3) Such toilet and other sanitary facilities shall be provided in the following manner:
    - (a) Male facilities shall consist of not less than: one (1) flush toilet for every fifteen (15) trailers; one (1) urinal for every fifteen (15) trailers; one (1)

lavatory for every ten (10) trailers; one (1) shower, with an adjoining dress compartment of at least twenty-five (25) square feet for every ten (10) trailers.

- (b) Female facilities shall consist of not less than: one (1) flush toilet for every eight (8) trailers; one (1) lavatory for every ten (10) trailers; one (1) shower, with an adjoining dress compartment of at least twenty-five (25) square feet for every ten (10) trailers.

- (4) Lavatory and shower facilities shall be supplied with hot and cold running water.
- (5) The building housing such toilet and sanitary facilities shall be well-lighted at all times of the day and night; shall be well-ventilated with screened openings; shall be constructed of moisture-proof material; shall be well-heated; and shall be clean and sanitary maintained at all times. The floors of such buildings shall be of a water impervious material.
- (6) Such buildings shall not be located nearer than twenty (20) feet nor further than two hundred (200) feet from any trailer.

8.8.2 The provision found in Section 7.8.3 shall apply. 8.8.3 The provision found in Section 7.8.4 shall apply.

8.8.4 The provision found in Section 7.8.2 (c) shall apply.

8.8.5 Waste from all buildings and trailer lots shall be discharged into a public or private sewer system in such a manner as not to present a health hazard. The provisions found in Section 7.8.2 (b) shall apply.

8.8.6 The provision found in Section 7.8.4 shall apply.

## 8.9 OPEN SPACE

8.9.1 Each trailer camp shall provide common open space for the use by the occupants of such camp.

8.9.2 Such open space shall be conveniently located in the camp. Such space shall have a total area equal to at least ten (10) percent of the gross land area of the camp.

## 8.10 LANDSCAPING

The provision found in Section 7.10 shall apply.

## 8.11 RECORDING

8.11.1 It shall be the duty of each licensee to keep a register containing a record of all persons occupying or using the facilities of such camp. This record shall be available for a period of at least one (1) year from date of occupancy.

8.11.2 The record shall include:

- a. The name and address of the occupant of each travel trailer.
- b. The name and address of the owner of each trailer which is not occupied by such owner.
- c. State in which trailer is registered and the registration number.
- d. Name and address of owner of automobile or other vehicle, which propelled the travel, trailer.
- e. State in which the automobile or other vehicle is registered, and the registration number.

Section 9 FIRE PROTECTION

Every park shall be provided with such suitable and adequate fire extinguishers and other fire prevention devices as may be prescribed by the chief of the fire district wherein said park or camp is located; or, in the event that no fire district is in existence, fire prevention equipment shall be provided in accordance with requirements of the fire chief of the company serving said area wherein the said park or camp is located, or as otherwise designated or approved from time to time by the Town Board.

Section 10 ANIMALS AND PETS

Domestic animals and house pets shall not be permitted to run at large or commit any nuisance within the limits of a mobile home park or trailer camp.

Section 11 GRATUITOUS GUEST

Nothing in this local law shall prevent a gratuitous guest or guests from parking a travel trailer upon any land or premises owned by the host of such gratuitous guest for a period not to exceed thirty (30) days in any one calendar year, providing such travel trailer is registered from an address outside of the Town of Charlton, sanitary conditions are maintained and no direct or indirect charge is paid.

Section 12 SUPERVISION

The licensee or a duly authorized attendant or caretaker shall be in charge at all times to keep the mobile home park or trailer camp, their facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee for any violation of any provision of this local law to which the licensee is subject.

Section 13 MISCELLANEOUS PROVISIONS

- a. All plumbing fixtures installed in each mobile home park or trailer camp shall conform to the requirements of the State Department of Health and the Standard Plumbing Code.
- b. No commercial activities shall be permitted which shall cause lumber, trees and refuse therefrom to be piled or strewn within the area of the mobile home park or trailer camp.

Section 14 ISSUANCE OF LICENSE. NOT TO WAIVE COMPLIANCE WITH OTHER STATUTES, LOCAL LAWS OR ORDINANCES

The issuance of a mobile home park or trailer camp license pursuant to the provisions of this local law shall not be deemed to waive compliance by the holder thereof, by the property owner or by an occupant of said park or camp with any statute of the State of New York or any ordinance, local law, or health regulation of the Town of Charlton.

Section 15 REVOCATION OF LICENSE

The Town Board may revoke any license to maintain and operate a park or camp when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this local law. After such conviction the license may be reissued if the circumstances leading to conviction have been remedied and the park or camp is being maintained and operated in full compliance with law.

Section 16 POSTING OF LICENSE

The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home park or trailer camp at all times.

Section 17 AMENDMENTS

The Town Board may, from time to time, on its own motion or on petition, after public notice and hearing, amend, supplement, change, modify or repeal this local law pursuant to provisions of the Town Law applicable thereto.

Section 18 VALIDITY

The invalidity of any provision of this local law shall not invalidate any other part thereof.

Section 19 VIOLATION AND PENALTIES

Any person, firm or corporation who violates any provision of this local law shall be subject to a fine of not less than ten (10) dollars nor more than one hundred (100) dollars or to imprisonment for a period of not less than one (1) day nor more than fifteen (15) days or by both such fine and imprisonment.

The imposition of all penalties for any violation of this local law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this local law shall not be held to prevent the enforced removal of conditions prohibited by this local law. When a violation of any of the provisions of this local law is continuous, each twenty-four hours thereof shall constitute a separate and distinct violation.

Section 20 EFFECTIVE DATE

This local law shall take effect twenty (20) days after date of passage.

Passed: November 5, 1969

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #2  
of the YEAR 1971

**A LOCAL LAW AMENDING A LOCAL LAW RELATING TO MOBILE HOMES, MOBILE HOME PARKS, AND TRAILER CAMPS IN THE TOWN OF CHARLTON**

Be it enacted by the Town Board of the Town of Charlton as follows:

The following sections of Local Law No. 3 of the Year 1969 are amended to read as follows:

- 7.2.4 The park shall be at least ten (10) acres in size. Minimum frontage on a public road shall be 100 feet except that in cases where more than one point of entry and exit is provided, the road frontage shall be sufficient to meet the requirements of 7.62.
- 7.3.2 On the area used specifically for mobile home lots and excluding area used for other purposes such as but not limited to streets, guest parking, recreation, community facilities, etc., the density of mobile home lots shall not exceed four (4) per acre.
- 7.3.3 Each mobile home lot shall have a total area of not less than 7,500 square feet with a minimum dimension of fifty (50) feet and a mean minimum dimension of 75 feet.
- 7.4.1 d At least ten (10) feet from the nearest edge of any street right of way location within the park.
- 7.6.2 Where a mobile home park has more than sixteen (16) mobile homes, two (2) points of entry and exit on a public road shall be provided, but in no instance shall the number of entry and exit points exceed four (4).
- 7.6.2 e The minimum distance between centerlines from any point of entry and exit to another point of entry and exit shall be 400 feet.
- 7.6.3 d The minimum distance between intersections shall be 300 feet and the maximum distance between intersections shall be 800 feet.
- 8.3.2 On the area used specifically for trailer lots and excluding area used for other purposes such as but not limited to streets, guest parking, recreation, community facilities, etc., the density of trailer lots shall not exceed four (4) per acre.
- 8.4.1 b The provision found in Section 7.4.1 (b) shall apply.
- 8.4.1 c The provision found in Section 7.4.1 (c) shall apply.
- 8.4.1 d The provision found in Section 7.4.1 (d) shall apply.

Passed: March 9, 1971

## Appendix B-3

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #2  
of the Year 1973

A LOCAL LAW RELATING TO THE CREATION OF AN HISTORIC ZONING DISTRICT  
AND OF A HISTORIC ZONING COMMISSION FOR THE TOWN OF CHARLTON

BE IT ENACTED by the Town Board of the Town of Charlton as follows:

SECTION 1: SHORT TITLE

This Local Law may be cited as the Charlton I-Historic Zoning Local Law.

SECTION 2: LEGISLATIVE INTENT

Pursuant to the provisions of Section 261 of Article 16 of the Town Law. It is hereby declared that the preservation and protection of the Hamlet of Charlton, New York, its buildings and open spaces are a public purpose of the Town of Charlton and the purpose of this Local Law is to:

- A. Recognize the unique and valuable resource which the present Hamlet of Charlton represents in the economic, social, political and cultural history of Saratoga County and in the Pre-Civil War and later periods of American Architectural Development.
- B. Protect and preserve those buildings and open spaces having architectural and/or historic value in themselves, or those that form an organic part of the whole.
- C. Insure that future growth and development of the area shall not impair the distinctive architectural and historical character of the Hamlet.
- D. Promote the use of the Historic District for the education, pleasure, prosperity and general welfare of the citizens of the Town of Charlton and others.
- E. Allow architectural advice to be given, as requested, on renovation, restoration and additions, whether a building permit is required or not.
- F. Establish a historic District Commission to help carry out the purposes of this Local Law,

SECTION 3: BOUNDARIES OF HISTORIC DISTRICT

The Historic District shall be the area shown and bounded as such on the map entitled "Zoning Map of the Town of Charlton" Saratoga County, New York, dated April 16, 1973, as may be amended, and made a part of this Local Law and generally described as follows: the area contained within lines running parallel to the center line of County Road #51 located 40 rods north

and 40 rods south from the center of County. Road #51 bounded on the west by a line 40 rods to the west of and parallel to the center line of Jockey Street, bounded on the east by a line 40 rods to the east of and parallel to the center line of Stage Road.

See Appendix "AHD"

#### SECTION 4: REGULATED CONDUCT

##### A. Application

This Local Law shall apply to external features within the Historic District, which require a building permit. Changes in any external feature, including but not limited to construction, reconstruction, alteration, restoration, removal or demolition shall not be made except as hereinafter provided.

##### B. Exception

Nothing in this Local Law shall be construed to prevent the ordinary maintenance and repair of any existing external feature in the historic District. Nothing in this Local Law shall be construed to prevent repair and reconstruction of any external feature required by public safety because of dangerous or unsafe conditions.

##### C. Relation To Other Ordinances

Any provisions of the zoning ordinance or subdivision regulations related to land use or subdivision and other controls shall remain in force to the extent they do not conflict with the intent and purpose of this Local Law. In the event of conflict, this Local Law shall control.

#### SECTION 5: REGULATION OF SIGNS, OUTDOOR LIGHTING, AND PUBLIC WAYS

1. Signs erected in the Historic District shall conform to the requirements as established by the Town of Charlton Zoning Ordinance. They shall have the approval of the Zoning Administrative Officer who is authorized to take into consideration the aesthetic criteria established by the Historic District Commission.
2. The design of street lighting shall be approved by the Zoning Administrative Officer who is authorized to take into consideration the aesthetic criteria established by the Historic District Commission as it pertains to the atmosphere of the Historic District. This shall specifically pertain to street lighting and the establishment of any future lighting district.
3. The homeowners of the historic District shall retain the right to submit a petition to either the Town Board of the Town of Charlton or the Saratoga County Board of Supervisors regarding the establishment and/or changes in any rights of way under the jurisdiction of either the Town of Charlton or the County of Saratoga with the Historic District expressing their disapproval of such establishment and/or changes.

#### SECTION 6: LIMITING THE USE, ARRANGEMENT AND ARCHITECTURAL STYLE OF BUILDINGS IN THE HISTORIC DISTRICT

1. There is established hereby a Historic District as specified herein, wherein, in addition to the requirements of the Town of Charlton Zoning Ordinance, the sole principal use

permitted, shall be a single family dwelling which is defined as a residential structure designed for and occupied exclusively by one family.

2. Notwithstanding the provisions of Paragraph 1 immediately above, the provisions of Article IV Section 4 (nonconforming uses) of the Town of Charlton Zoning ordinance are incorporated by reference herein.
3. In reviewing any plans, the Historic Commission shall give consideration;
  - (a) The historic and architectural significance of the structure and its relationship to the historic character of the surrounding area;
  - (b) The general appropriateness of exterior design and arrangement proposed to be used; and
  - (c) Any other factors, including aesthetic, which are deemed pertinent.
4. In addition to the foregoing general standards, the following specific standards shall apply in appropriate cases:

(a) Alterations and Additions

Alterations and additions to existing buildings should either be made consistent with their architectural style or should alter the structure to an appropriate appearance consistent with the architectural styles existing in the historic District.

(b) New Construction

New construction shall be approved by the Zoning Administrative Officer who is authorized to take into consideration architectural standards adopted by the Commission which reflect styles of historic character existing within the historic District.

(c) Demolition

Demolition should be prohibited in the case of a structure of historic value unless the Zoning Administrative Officer is satisfied that the retention of such structure constitutes a hazard to the public safety which hazard cannot be eliminated by economic means available to the owner. Such prohibition shall in this case be effective for no more than one year from the date of application for a permit to demolish. During this year the Commission shall endeavor to work out with the owner a feasible plan for the preservation of such structure. Moving of a dwelling of historic or architectural value may be allowed as an alternative to demolition.

## SECTION 7: HISTORIC DISTRICT COMMISSION

1. Creation of Commission: In order to execute the purposes declared in this Local Law, there is hereby created a commission to be called the Historic District Commission.

2. **Membership of Commission:** The Historic District Commission shall consist of five members, property owners in the Town of Charlton, at least three of whom shall reside in the Historic District. Further, only one member may be permitted to serve at any given time. They shall be appointed by the Town Board, Town of Charlton for terms of office of three years provided that two of the initial members shall be appointed for one year, two for two years, and one for three years, and subsequently members shall be appointed for terms of three years as terms expire. Members of the Commission may be reappointed for succeeding terms. Members should be selected based on interests, which coincide with the purpose and intent of this Local Law.

A vacancy occurring in the membership of the Commission for any cause shall be filled by a person appointed by the Town Board of the Town of Charlton for the unexpired term. The Commission may make recommendations respecting the filling of a vacancy.

The members of the Commission shall serve without compensation.

#### SECTION 8: DUTIES AND POWERS OF THE COMMISSION

It shall be the duty of the commission to exercise advisory aesthetic judgment to maintain the desirable character of the Historic District and to encourage construction or alteration to be in harmony with existing buildings insofar as bulk, style, materials, line, proportions, detail and relation to open spaces and other external features are concerned, and thus to prevent degeneration of property, safeguard public health, prevent fire and promote safety and preserve the beauty and character of the Historic District.

Further, it shall be the duty of the Commission to review all plans for the construction, alteration, or demolition of structure in the Historic District, and it shall render advisory opinions to the Zoning Administrative Officer regarding such plans before a permit for such activity can be granted, provided that the Commission shall pass only on such exterior features of a structure, as are visible from the public way, and shall not consider interior arrangements.

In addition to the aforementioned duties, the Commission shall:

1. Adopt and publish rules of procedure, which it deems necessary to carry out the intent of this Local Law.
2. Prepare a list of architectural criteria to insure the relatedness of development within the Historic District which may serve as a guide for the information of persons contemplating work within the Historic District and as an aid to the Commission in reviewing applications.
3. Maintain a directory of suitable architectural styles.
4. Hold public hearings upon 1, 2 and 3 above.

5. Conduct surveys of buildings and open spaces in the Historic District for the purpose of acquiring data concerning historic, architectural or cultural significance about them and formulating recommendations concerning them to the Town Board.
6. Advise owners of buildings within the District, if requested, on preservation and restoration of historic structures.
7. Accept funds, donations, grants or services in kind, which will assist the Commission in carrying out the duties described.

The Commission shall issue an Opinion of Approval if it approves the plans submitted to it for its review. The Zoning Administrator shall have discretion to accept or not accept the opinion of the Commission in making his decision whether or not to issue a building permit.

Application for an Opinion of Approval shall be made to the Commission in duplicate upon forms prescribed, by the Commission. If it deems it necessary, the Commission may require additional plans, data, samples, etc., to facilitate proper evaluation of the project.

#### SECTION 9: RULES OF THE COMMISSION

The Town Board annually shall appoint from the membership a Chairman. A Vice-Chairman shall be elected by the membership. The Chairman shall preside over the Commission and shall have the right to vote. The Vice-Chairman shall, in cases of absence or disability of the Chairman, perform the duties of the Chairman.

The Commission shall appoint a secretary who shall keep a record of all resolutions, proceedings and actions of the Historic District Commission.

Three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall adopt rules for the transaction of its business meetings. They shall provide for the calling of executive meetings by the Chairman or by at least two members of the Commission. All hearings of the Commission shall be open to the public and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the Commission before it reaches its advisory decision.

The Commission shall keep a record, which shall be open to the public review, of its resolutions, proceedings and actions. The concurring affirmative vote of three members shall constitute approval of plans before it for review, or for the adoption of any resolution, motion or other action of the Commission. The Commission shall submit an annual report of its activities to the Town Board and make such recommendations to the Town Board, as it deems necessary to carry out the purposes of the Local Law.

#### SECTION 10: PROCEDURE FOR THE REVIEW OF PLANS

Applications for a building permit to construct, alter, move or demolish any structure in the Historic District shall be made to the Zoning Administrator. The application shall state that the property is in the Historic District. Plans, elevations and material specifications shall be submitted showing the structure in question and also giving its relation to adjacent structures.

Upon the filing of such application, the Zoning Administrator shall notify the Historic District Commission of the receipt of such application and shall transmit it together with accompanying plan and other information to the Commission within 72 hours.

The Historic Commission shall meet within fifteen days after notification by the Zoning Administrator of the filing, unless otherwise mutually agreed upon by the applicant and Commission, and shall review the plans according to the duties and powers specified herein. In reviewing the plan, the Commission may confer with the applicant or his authorized representative for the building permit.

The Commission shall approve or disapprove such plans, and if approved shall issue an Opinion of Approval, which is to be signed by the Chairman, attached to the application for a building permit and transmitted to the Zoning Administrator. The Chairman shall also stamp all prints submitted to the Commission signifying its advisory approval.

If the Commission disapproves of such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor in writing to the Zoning Administrator and to the applicant. The Commission may recommend what it thinks is proper if it disapproves of the plans submitted. The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after doing so.

The failure of the Historic District Commission to render an advisory opinion regarding such plans within 30 days from the date of application for the building permit shall be deemed to constitute approval and the Zoning Administrator may process the application without regard to an Opinion of Approval. After the Opinion of Approval has been transmitted and the building permit granted to the applicant, the Zoning Administrator shall from time to time inspect the construction, alteration or repair approved by such opinion and shall take such action as is necessary to enforce compliance with the approved plans. The Commission shall assist the Zoning Administrator within the scope of the Commission's responsibilities.

#### SECTION 11: VARIANCES TO THIS ARTICLE AND APPEALS

Any person or persons jointly or severally aggrieved by a decision of the Zoning Administrative Officer shall have the right to appeal to the Board of Appeals for a review of such decision as provided by the Town of Charlton Zoning Ordinance and seek such other remedies as may be provided for by this Local Law or general law.

#### SECTION 12: SEVERABILITY OF PROVISIONS

The provisions of this Local Law shall be deemed to be severable, and if any of its provisions shall be held unconstitutional or invalid by any court of competent Jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

#### SECTION 13: EFFECTIVE DATE

This Local Law shall take effect upon being filed in the office of the Secretary of State, as provided in Section 27, subdivision 3 of the Municipal Home Rule Law and upon being posted and published as provided in Local Law #1 of the Year 1973 of the Town of Charlton.

PASSED: September 11, 1973

## Appendix B-4

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #2  
of the YEAR 1975

A LOCAL LAW RELATING TO THE MAINTENANCE OF SANITARY CONDITIONS FOR  
SEWAGE DISPOSAL SYSTEMS IN THE TOWN OF CHARLTON

BE IT ENACTED by the Town Board of the Town of Charlton as follows:

**SECTION 1: SHORT TITLE**

This local law may be cited as "Charlton Sanitary Sewage Disposal System Local Law".

SECTION 2: Pursuant to the provisions of Section 130, Subdivision 2 of Article 9 and Section 261 of Article 16 of Town Law it is hereby declared that the maintenance of adequate sanitary conditions for sewage disposal systems for which building permits are granted pursuant to the Town of Charlton Zoning Ordinance is a public purpose of the Town of Charlton and the purpose of this local law is to establish standards for the maintenance of sanitary sewage disposal systems within the Town of Charlton and provide for the enforcement thereof.

**SECTION 3: MINIMUM SANITARY STANDARDS**

Any sewage disposal system upon a plot or parcel of land for which a building permit is granted or any sewage disposal system the reconstruction of which is done pursuant to a building permit issued subsequent to the effective date of this local law shall conform to the following standards for sanitary conditions:

- a. At no time shall liquid effluent seep, percolate or otherwise escape from any sewage disposal system or part thereof including but not limited to septic tanks, distribution boxes, lateral and drain fields to the surface of the ground on or adjacent to the plot on which it is located nor shall any such liquid effluent seep into any water well, running stream, pond, lake or highway ditch in such condition as to be considered a pollutant or health hazard according to standards established by the New York State Department of Health.
- b. At no time shall noxious odors, vapors, gasses or offensive smells be allowed to emanate from any sewage disposal system or part thereof including but not limited to septic tank distribution boxes, lateral lines and drain fields to such an extent as to be detectable and objectionable or cause a public nuisance beyond the property lines of the plot or lot upon which said system is located.

**SECTION 4: ENFORCEMENT**

- a. Any complaint regarding the failure of any sewage disposal system subject to the provisions of this local law shall be filed with the Zoning Administrative Officer. Such complaint need not be in writing nor shall the Zoning Administrative officer require the identity of the complainant.

- b. Upon receipt of a complaint regarding any sewage disposal system as set forth in Paragraph (a) of this section or upon his own initiative the Zoning Administrative Officer shall conduct an investigation, take samples of liquid effluent or document the presence of noxious odors to verify whether said standard are being complied with.
- c. Should the Zoning Administrative Officer find that there is a violation of the provisions of this local law, he shall serve written notice of such violation upon the owner or lessee of the premises upon which said violation is occurring and shall set a period, not less than 30 days, with which the violation shall be abated by positive action to correct the cause of the violation.
- d. Should the violation not be committed pursuant to Paragraph (c) of this section at the expiration of the set period, the Zoning Administrative Officer shall report such failure to the Town Board and upon the instruction of the Town Board apply to the courts for appropriate action.

#### SECTION 5: VIOLATION AND PENALIZES

The owners or general agent of a building or premises where a violation of any provision of this local law has been committed or shall exist, or the lessee or tenant of any building or any premises where such violation has been committed or shall exist, or the general agent, architect, building contractor, or any other person who commits, permits, takes part, or assists in such violation of any provision of this local law, or who maintains any building or premises or any part thereof in which any violation shall exist, shall be guilty of an offense punishable by a fine not exceeding \$50.00 or imprisonment for a period not to exceed 6 months, or both, and of a misdemeanor as specified and for the purposes set forth in Paragraph 268 of Town Law, as amended.

Each week of continued violation after notice thereof shall have been given as herein provided, shall constitute a separate violation. Such notice shall be in writing signed by the Zoning Administrative officer and shall be served upon the person or persons committing such violation either personally or by mail addressed to such person or persons at his or her last known address. In addition thereto, the Town authorities shall have such other remedies as are provided by law to restrain, correct or abate any violation of this local law.

#### SECTION 6: SEVERABILITY OF PROVISIONS

The provisions of this local law shall be deemed to be severable and if any of its provisions shall be held unconstitutional or invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

#### SECTION 7: EFFECTIVE DATE

This local law shall take effect upon being filed in the Office of the Secretary of State as prescribed in Section 27, subdivision 3 of the Municipal Home Rule Law and upon being posted and published as provided in Local Law #1 of the Year 1973 of the Town of Charlton.

PASSED: April 1, 1975

**Appendix B-5**

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #1  
of the Year 1979

SITE PLAN REVIEW

A. Prior to the issuance of a building permit for any use requiring site plan review as specified in the Zoning Ordinance of the Town of Charlton, the Planning Board shall conduct a site plan review of the proposal. The site plan review will be conducted in strict compliance with this law.

B. Intent

It is the intention of this section to promote and encourage good design standards; adequate site amenities and visual and physical quality for land uses in the Town of Charlton. It is further the intention to promote compatible land uses.

C. Function

It is the function of the site plan to illustrate the intended design, arrangement and uses of the land to be improved and to describe the effect the proposal will have on the physical, social and economic environment of the community.

D. Review Procedure

The review of site plans is divided into three phases - pre-submission, preliminary application and final application.

1. Pre-Submission Conference

The Zoning Administrative Officer shall refer the applicant to the Secretary of the Planning Board who shall schedule a pre-submission conference for the next regularly scheduled Planning Board meeting. The purpose of the pre-submission conference is to give the Planning Board and the applicant an opportunity to gain a perspective of the proposal's ramifications. This conference is beneficial to both parties because the community will gain knowledge of the applicant's intent and the applicant will learn his/her responsibilities before either is committed to significant outlays of time or capital.

At the pre-submission conference the applicant shall provide the Planning Board with basic data regarding the proposal: At a minimum, the applicant shall provide a sketch map to scale showing the important existing natural and man-made features in and around the site and a sketch plan showing the major features of the proposal.

2. Preliminary Application for Site Plan Approval

An application, in triplicate, for preliminary site plan approval shall be made in writing to the Planning Board. The application may be presented at the next regularly scheduled Planning Board meeting following the pre-submission conference or sooner if the Planning Board deems it appropriate. The preliminary application shall not be accepted for review unless all requirements outlined at the pre-submission conference have been met.

The application shall be accompanied by copies of the information drawn from the following checklist, as determined necessary by the Planning Board at the pre-submission conference. The required preliminary site plan shall be prepared by a licensed professional engineer or architect regularly engaged in this type of work when so specified by the Planning Board at the pre-submission conference or required by other laws or ordinances.

a. Preliminary site plan checklist:

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- North arrow, scale and date;
- Boundaries of the property plotted to scale;
- Names of owners of all bounding properties;
- Existing watercourses, wetlands and floodplains;
- Grading and drainage plan, showing existing and proposed contours;
- Location, proposed use and height of all buildings;
- Location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto;
- Provision for pedestrian access;
- Provision for handicapped persons where appropriate;
- Location of outdoor storage, if any;
- Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- Description of the method of sewage disposal and location, design and construction materials of such facilities;
- Description of the method of securing public water and location, design and construction materials of such locations;
- Location of fire and other emergency zones, including the location of fire hydrants;
- Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

- Location, size and design and construction materials of all proposed signage;
- Location and proposed development of all buffer areas, including indication of existing vegetative cover;
- Location and design of outdoor lighting facilities;
- Designation of the amount of building area proposed for retail sales or similar commercial activity
- General landscaping plan and Planting schedule; and
- Other elements integral to the proposed development, as considered necessary by the Planning Board, including identification of any State or County Permits required for the project's execution.

b. Planning Board Review of Preliminary Site Plan Application. The Planning Board's review of the preliminary site plan application shall include, but not be limited to, the following:

- The need of the proposed use.
- Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls.
- Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- Location, arrangement, appearance and sufficiency of off-street parking and loading.
- Location, arrangement, size, design and general site compatibility of buildings, lighting and signage.
- Adequacy of stormwater and drainage facilities.
- Adequacy of water supply and sewage disposal facilities.
- Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.

- Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

- Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility of pending, flooding, erosion, and/or provision for handicapped persons.

c. Consultant Review

The Planning Board may consult with the Zoning Administrative Officer, Fire Commissioners, Town Environmental Conservation Committee, Town Highway Superintendent, Town Engineer, other local and county officials, the New York State Health Department, Department of Environmental Conservation and Department of Transportation or any other Department or Agency as the Planning Board may deem necessary.

d. Referral to the County Planning Board

Prior to taking action on the preliminary site plan application the Planning Board shall refer a copy of the application to the Saratoga County planning Board for its review in accordance with Section 239 of the General Municipal Law.

e. Planning Board Action on Preliminary Site Plan Application

Within forty-five (45) days of the receipt of an application for preliminary site plan review, the Planning Board shall act on it. The Planning Board shall approve, disapprove or approve with modifications the preliminary site plan application. The Planning Board's action shall be in the form of a written statement to the applicant.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan application, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan application is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

Public Hearing and Consultation with Town Board: Before acting upon the Preliminary Site Plan the Planning Board shall hold a public hearing at which all affected persons may speak for or against the application. Notice of such hearing shall be published in the Town's designated official newspapers ten (10) days prior to the date of the hearing, and notice shall be concurrently posted upon the Town Clerk's bulletin board. Actual notice shall be mailed to residents deemed by the Planning Board to be potentially highly impacted by the subject matter of the application. Such notice shall be mailed at least ten (10) days prior to the scheduled public hearing.

In addition to the foregoing, prior to granting of such final approval the Planning Board will consult with and receive comments from the Town Board regarding such site plan.

3. Planning Board Review of Final Site Plan Application

After receiving approval with or without modifications, of the preliminary site plan application the applicant shall submit a final detailed site plan application to the Planning Board for approval.

The final site plan application shall conform substantially to the approved, preliminary site plan and shall include any modifications that were required as a result of the preliminary site plan review.

a. Planning Board Action on Final Site Plan Application

Within forty-five (45) days of the receipt of the final site plan application the Planning Board shall approve or disapprove the final site plan application. Three copies of the final site plan application are required. The final site plan shall be prepared by a licensed professional engineer or architect regularly engaged in this type of work when so specified, by the Planning Board or required by other laws or ordinances. Upon approval of the final site plan the Planning Board shall endorse its approval on all three copies of the final site plan and forward on copy to the Zoning Administrative Officer and provide one copy to the applicant. The third copy will be retained by the Planning Board. Upon disapproval of the final site plan the Planning Board shall so inform the Zoning Administrative Officer and the Zoning Administrative Officer shall deny the applicant a building permit. The Planning Board shall so notify the applicant in writing of its decision and its reason for disapproval.

b. If the preliminary site plan application is approved without modifications, the final site plan application procedure may be waived by the Planning Board.

4. Performance Guarantee

No Certificate of Occupancy shall be issued until all improvements shown on the approved site plan are installed. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Zoning Administrative Officer.

E. Saving Clause

If any clause, sentence, paragraph section, or part of this local law shall be adjusted by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

F. Effective Date

This local law shall take effect upon being filed in the Office of the Secretary of State as prescribed in Section 279 subdivision 3 of the Municipal Home Rule Law and. upon being posted and published as provided in Local Law #1 of the Year 1973 of the Town of Charlton.

Adopted: April 10, 1979.

Filed with Secretary of State: April 30, 1979.

## Appendix B-7

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #2  
of the Year 1990

**LITTERING AND DUMPING**

Be it enacted by the Town Board of the Town of Charlton, as follows;

Purpose

The Town Board has become aware of a growing problem of the dumping of litter, rubbish, refuse, debris, garbage, waste and discarded objects, materials and/or matter on various properties of the Town, including park and recreation areas and highway right-of-ways, thereby creating unsightly and hazardous conditions and a drain on the resources of the Town for removal and cleanup of those areas.

Definitions

As used in this local law, the following terms shall have the meanings indicated:

GARBAGE: Animal, food, and vegetable wastes; animal, food and vegetable wastes resulting from the handling, preparation, cooking and consumption of food and materials such as paper, cardboard wood, cloth, food cans, glass containers and bottles, dead animals, or parts thereof and/or any other matter capable of fermentation and decay.

PERSON: Any person, employee, servant, agent, firm, partnership, association, company or organization or entity of any kind.

PUBLIC PLACE: Includes parking areas, rights-of-way, parks, trails, drainage easements, grounds or other public areas.

REFUSE: All putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, and ashes.

RUBBISH: Nonputrescible solid wastes, including ashes, consisting of both combustible and non-combustible wastes, such as yard clippings, metals, wood, glass, bedding, crockery, household appliances, shopping carts, automobiles or parts thereof and similar materials.

STREET: Includes any public street, roadway, highway, lane or alleyway.

Prohibited Acts

- A. No person shall deposit, throw, cast, lay or suffer or permit any person to deposit, throw, cast or lay any waste, litter, rubbish, refuse, garbage, debris, discarded objects, materials and/or matter of any type on any street or public place in the Town.

- B. No person shall abandon or discard or cause or suffer any other person to abandon or discard any article or thing, including but not limited to shopping carts or shopping wagons, baskets, crates, boxes, cartons, yard supplies, household appliances, automobiles or parts thereof, machinery or equipment, rubbish, refuse or garbage in any street, avenue, highway or public place in the town.
- C. No person, being the owner, driver or manager of an automobile or other vehicle, and no owner of any receptacle, shall deposit, scatter, blow, drop, spill or permit to be deposited, scattered, blown, dropped or spilled any dirt, gravel, sand, clay, loam, stone or building rubbish or materials, shavings, rubbish, litter, waste materials, household appliances, automobiles or parts thereof, machinery, refuse, or garbage therefrom upon any street, avenue, highway, or public place in the town.
- D. Households and business places may place garbage and rubbish in properly covered containers in front of their premises for authorized collecting or removal, and are exempt from these provisions.

Penalties for Offenses

- A. Any person violating any of the provisions of this local law, as the same may be from time to time amended, shall be guilty of a violation punishable by imprisonment for not more than fifteen (15) days or by a fine of not more than \$500.00 or both and/or appropriate community service.

Additional penalties

- (1) Violation of this local law shall subject the offender, for each offense, to a civil penalty as follows:
  - (a) For the first offense, not more than five hundred dollars (\$500) or twice the cost to the town of clearing away the offensive materials, whichever is greater.
  - (b) For a second offense, seven hundred fifty dollars (\$750) or twice the cost to the town of clearing away the offensive materials, whichever is greater.
  - (c) For a third and subsequent offenses, one thousand dollars (\$ 1, 000), or twice the cost to the town of clearing away the offensive materials, whichever is greater.'
  - (d) Each day or part thereof that such violation shall continue shall be deemed to be a separate and distinct violation of the provisions of this local law and shall render the offender liable for a separate penalty for each such violation.

Severability

The declaration of any portion of this local law by a court of competent jurisdiction to be invalid shall not invalidate the portion of this local law not so declared to be invalid, and the remainder of this local law shall remain in full force and effect.

When Effective

This local law shall become effective immediately.

## Appendix B-8

**TOWN OF CHARLTON**

**COUNTY OF SARATOGA  
STATE OF NEW YORK**

**LOCAL LAW #1  
of the Year 1991**

This law shall be known as the "Property Maintenance Law" of the Town of Charlton.

Intent

A sanitary and hazard free environment is declared to be of vital importance to the health, welfare and safety of the inhabitants of the Town of Charlton. In addition, such an environment is deemed essential to the maintenance and continued development of the Town of Charlton and the general welfare of its citizens. Therefore, recognizing the above in the exercise of its police power in these regards, the Town Board of the Town of Charlton does hereby enact this Law.

General Requirements

All premises located within the Town of Charlton, whether improved or vacant, shall be maintained in conformity with the provisions of the Town Laws and Regulations.

**PUBLIC NUISANCE AFFECTING HEALTH** - A nuisance which is a thing, act or-occupation or use of property, premises, equipment or structure of either private or public, affecting the health of one (1) or more persons.

Applicability

The provisions of this law shall supplement all local laws, ordinances, codes or regulations existing in the Town of Charlton and the other statutes and regulations of municipal authorities having jurisdiction applicable thereto. Where a provision of this law is found to be in conflict with any provision of any existing local law, ordinance, code or regulation, the provision or requirement which is more restrictive, or which establishes the higher standard shall prevail.

Inspections

The Zoning Administrative Officer of the Town of Charlton, as designated by the Town Board, shall have authority, as specified herein, to inspect all premises within the Town and to enforce the provisions of the Laws of the Town of Charlton.

Inspections

The Zoning Administrative Officer of the Town of Charlton, as designated by the Town Board, shall have authority, as specified herein, to inspect all premises within the Town and to enforce the provisions of the Laws of the Town of Charlton.

Notice of Violation

If conditions existing on property violate the provisions of the Laws of the Town of Charlton and/or constitute a public nuisance, the Zoning Administrative Officer or person designated by

the Zoning Administrative officer shall, in the first instance, serve or cause to be served a written notice, either personally or by certified mail, return receipt requested upon the owner.

Said notice shall contain substantially the following: the name of the owner, the identification of the premises as the same appears on the current assessment roll of the Town; a statement of the condition of the premises as found on the inspection; a demand that the condition be corrected, on or before Ten (10) days after the service or mailing of such notice; a statement that a failure or refusal to comply with the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Town entering upon the property, correcting the violation; and that the cost and expense of such removal shall be certified to the Assessor of the Town and shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

#### Re-inspection and Correction Following Notice

Ten (10) days after the service or mailing of the notice, the Administrative Zoning Officer or another designated person shall re-inspect the premises.

Upon failure of the owner to correct the condition or abate the nuisance, proceedings shall be commenced in the appropriate Court.

Upon determination and findings by a Court of Law of a violation and/or the existence of a public nuisance, and the condition is not corrected as directed by the Court, the Town of Charlton in addition to other penalties, may authorize entry and an expenditure for the cost of labor and materials incurred by the Town, to correct the condition which constitutes a public nuisance, the violation of a local law, resolution, ordinance or amendments thereof, of the Town of Charlton. Notice of such authorization shall be sent to the owner by certified mail, return receipt requested.

A sworn statement shall be prepared by the Zoning Administrative Officer, or anyone designated by the Town Board, indicating the cost and expense incurred for the work, the date that the work was completed, and the location of the property by Section, Lot and Block Number and the name of the owner thereof.

A copy of said sworn statement shall be mailed to the owner by certified mail, return receipt requested. In the event the owner of said property fails to pay the charge within thirty (30) days of said mailing, said costs and expenses shall be assessed against said property and be collected in the manner fixed by law for the collection of taxes and shall be subject to a delinquent penalty at the legal rate of interest.

## Appendix B-9

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

**LOCAL LAW #1  
of the Year 1992**

**A LOCAL LAW REGULATING, CONTROLLING, AND PROHIBITING THE DUMPING,  
STORING, OR PLACING OF CERTAIN KINDS OF SOLID OR LIQUID WASTE  
MATERIAL WITHIN THE TOWN OF CHARLTON**

**SECTION 1. LEGISLATIVE INTENT**

By the adoption of this Local Law, the Town Board of the Town of Charlton, declares its intent to regulate, control and prohibit the dumping, storing or placing of certain kinds of solid or liquid waste material originating from inside or outside the boundaries of the Town of Charlton, or creating a dump or dumping ground of such materials within the Town. This Local Law is enacted by the Charlton Town Board in the exercise of its police power and pursuant to Section 130, subdivision (6), (8), and (15) of the Town Law of the State of New York. Nothing in this law shall supersede the laws of Saratoga County, New York State or Federal Government.

The dumping of permissible fill to fill in land depressions shall not be considered a violation of this local law.

**SECTION 2. DEFINITIONS**

The term "solid or liquid waste material" as used in this Local Law shall include all putrescible and nonputrescible solid and liquid wastes including, but not limited to, garbage, animal wastes, rubbish, ashes, incinerator residue, septage, sludges, street clearings, construction and demolition debris, abandoned vehicles or parts thereof, off commercial and industrial wastes, and any hazardous or toxic wastes.

Organic and inorganic agricultural fertilizer are not included within the aforesaid definition, unless and until they are used in such a manner so as to be hazardous to the health and wellbeing of the residents of the Town of Charlton.

The term "dump" or "dumping grounds" as used in Local Law shall include any place used by the public or any person for the disposal and leaving of solid or liquid waste material generated from other than the premises it is located on.

The term "person" as used in this Local Law shall include any individual, firm, partnership, corporation, municipality or association of persons.

For those terms not defined herein, the definitions as provided in the Environmental Conservation Law of the State of New York are hereby adopted and any terms not defined by

this statute or the Environmental Conservation Law are to be understood by their ordinary and customary usage.

The term permissible fill as used in this local law shall include: sand, gravel, stone, brick, cinder block, road debris, concrete, asphalt or any other material determined to be permissible by the Town Board.

### SECTION 3. PROHIBITION

The creation and/or operation of any sanitary landfills, dumps, or dumping ground within the Town of Charlton for solid or liquid waste materials coming from inside or outside the boundaries of the Town of Charlton is hereby prohibited.

### SECTION 4. ENFORCEMENT

Any person violating any of the provisions of this Local Law upon conviction thereof shall be punished by a fine not exceeding \$1,000.00 for each offense or by imprisonment for not more than six months or by both such fine and imprisonment. When a violation of this Local Law is continuous, each 24 hour thereof shall constitute a separate and distinct offense. The Town of Charlton Town Board shall also have the power to bring a civil action to restrain by injunction any violation of this Local Law in a court of competent jurisdiction.

Should the Town of Charlton Town Board deem it necessary for the protection of the health and well being of the residents of the Town of Charlton, the Town Board may authorize its representatives to enter upon the premises of any person or legal entity in violation of Local Law for purposes of monitoring, clean up, and controlling, in any way it deems necessary the prohibited material located on said premises. The expenses and costs associated with said monitoring, clean up and/or control shall be assessed against the offending person or entity who owns or controls said premises and/or shall be assessed against the real property, the subject of said monitoring, clean up and/or control of prohibited material and shall constitute a lien and charge against said real property until fully completely discharged.

The Town Board of the Town of Charlton, or the officials it so designates, shall be the sole power and authority to determine whether agricultural fertilizers in certain situations may be considered hazardous to the health and well being of the residents of the Town of Charlton and included within the aforementioned definition entitled "solid or liquid waste material". Upon such determination by the Town Board or its designated official(s), notice of such determination shall be served upon the offending person or persons as that term is herein defined, together with those specific facts forming the persons as that term is herein defined, together with those specific facts forming the basis for such determination. There shall be no enforcement of the provisions of this law relating to conviction, fine and/or imprisonment against any person, or persons prior to receipt of such notice, but only for their continued engagement in such activities after such notice. All other and civil enforcement procedures of this statute, such as but not limited to, injunctive relief, filing of liens, monitoring, clean-up and/or control of lands involved and the costs and expensed thereof, shall apply whether prior or subsequent to any notice of violation.

### SECTION 5. VALIDITY

Should any section, sub-section, sentence, clause or phrase of this Local Law, be for any reason, held unconstitutional or invalid, such decision shall not effect its remaining portions.

#### SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York State Secretary of State's Office.

Any person or firm holding a permit to dump at the time of the filing of this law shall be exempt from this law as long as they hold a permit.

## Appendix B-10

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

LOCAL LAW #1

of the Year 1993

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Town Board of the Town of Charlton, Saratoga County, N.Y. as follows:

**SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE**

**1.1 FINDINGS**

The Town Board of the Town Of Charlton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Charlton and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

**1.2 STATEMENT OF PURPOSE**

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

- (4) Control filling, grading, dredging and other development, which may increase erosion or flood damages;
- (5) Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) Qualify and maintain for participation in the National Flood Insurance Program.

### 1.3 OBJECTIVES

The objectives of this local law are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To provide that developers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

### SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-A30, A99, V, VO, VE, or VI-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Cellar" has the same meaning as "Basement".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones AI-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AI-A30, AE, A, A99, AO, AH, B, C, X, or D, 'elevated building' also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones VI-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal Agency that administers the National Flood Insurance-Program.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The EBFM delineates a Regulatory Floodway along watercourses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface evaluation, or an examination, evaluation and determination of flood related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "Flood Elevation Study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) By an approved state program as determined by the Secretary of the Interior; or
  - (ii) Directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be re-served in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures

which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law, which permits construction or use in a manner that would otherwise be prohibited by this local law.

### SECTION 3.0 GENERAL PROVISIONS

#### 3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Charlton.

#### 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency (COMPLETE ONE THROUGH FIVE AS NECESSARY):

- (1) Flood Insurance Rate Map (single panel) No. 360712 0001 0120 whose effective date is March 15, 1993.
- (2) Flood Insurance Rate Map (multiple panels) Index No. 360712 0001 0120 whose effective date is March 15, 1993.
- (3) A scientific and engineering report entitled "Flood Insurance Study, Town of Charlton New York, Saratoga County" dated March 15, 1993.
- (4) Flood Boundary and Floodway Map (single panel) No. \_\_\_\_\_ whose effective date is \_\_\_\_\_
- (5) Flood Boundary and Floodway Map (multiple panels) No. \_\_\_\_\_ whose effective date is \_\_\_\_\_

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the Town of Charlton Town Hall.

#### 3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### 3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

### 3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Charlton from any such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency. -

### 3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This liability shall not create liability on the part of the Town of Charlton any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

## SECTION 4.0 ADMINISTRATION

### 4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Zoning Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

## 4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

### 4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit.

Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: Plans, in duplicate, drawn to scale and showing: The nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

### 4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$25.00. In addition, the applicant shall be responsible for reimbursing the Town of Charlton for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

### 4.3 APPLICATION FOR PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones AI-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be flood proofed. Upon completion of the flood proofed portion of the structure, the permittee shall submit to the Local Administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the flood proofing criteria in Section 5.4, NONRESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps,

computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

#### 4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited the following:

##### 4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, subsection 5. 1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

##### 4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

#### 4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### 4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

#### 4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

#### 4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

#### 4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A Certificate of Compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the Certificate shall be based upon the inspections conducted as prescribed in section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

#### 4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4 (1) and 4.4-4 (2), and whether or not the structures contain a basement;
- (3) Flood proofing certificates required pursuant to sub-section 4.4-4 (1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6. 0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

### SECTION 5.0 CONSTRUCTION STANDARDS

#### 5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in section 3.2.

#### 5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities" such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

#### 5.1-2 ENCROACHMENTS

- (1) Within Zones AI-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (i) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
  - (ii) The Town of Charlton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Charlton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Charlton for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
  - (i) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
  - (ii) The Town of Charlton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the for all costs related to the final map revisions.

## 5.2 STANDARDS FOR ALL STRUCTURES

### 5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

### 5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to-flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - (ii) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

### 5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for

buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### 5.3 RESIDENTIAL STRUCTURES

#### 5.3-1 ELEVATION

The following standards, in addition to the standards in subsections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones AI-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

### 5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones AI-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
  - (i) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
  - (ii) Be flood proofed so that the structure is watertight below the base flood level with walls substantially impenetrable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

- (ii) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
- (iii) Together with attendant utility and sanitary facilities, be completely flood proofed to that level to meet the flood proofing standard specified in sub-section 5.4 (i) (ii).
- (3) If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A flood proofing certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4 (i) (ii), including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

## 5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones AI-A30, AE and AH shall either:
  - (i) Be on site fewer than 180 consecutive days,
  - (ii) Be fully licensed and ready for highway use, or
  - (iii) Meet the requirements for manufactured homes in paragraphs 5.5 (2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones AI-A30, AE and AH that is on a site either:
  - (i) Outside of an existing manufactured home park or subdivision as herein defined;
  - (ii) In a new manufactured home park or subdivision as herein defined-al
  - (iii) In an expansion to an existing manufactured home park or subdivision as herein defined; or
  - (iv) In an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone AI-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damaged shall be:
  - (i) Elevated in a manner such as required in paragraph 5.5 (2), or
  - (ii) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

## SECTION 6.0 VARIANCE PROCEDURE

### 6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals is established by the Town of Charlton shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
  - (i) The danger that materials may be swept onto other lands to the injury of others;
  - (ii) The danger to life and property due to flooding or erosion damage;
  - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) The importance of the services provided by the proposed facility to the community;
  - (v) The necessity to the facility of a waterfront location, where applicable;

- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (vii) The compatibility of the proposed use with existing and anticipated development;
  - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (x) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (xi) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (xii) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of section 6.1 (4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request

## 6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1 (4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
  - (ii) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) The criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
  - (ii) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of-
- (i) A showing of good and sufficient cause;
  - (ii) A determination that failure to grant the variance, would result in exceptional hardship to the applicant; and
  - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 1st day of February 1993 by the Town Board of the Town of Charlton, Saratoga County, New York, to be effective March 15, 1993

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

**TO AMEND  
Local Law #1 of the Year 1993**

A local law for Flood Damage Prevention

Be it enacted by the Charlton Town Board

A revision of:

**Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the Town of Charlton, Community No. 360712 are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) A scientific and engineering report entitled "Flood Insurance Study, Saratoga County, New York, "(all jurisdictions)" dated August 16, 1995..
- (2) Flood Insurance Rate Map for Saratoga County, New York "(all jurisdictions)" as shown on Index No. 3609100000, and panels 0505, 0509, 0510, 0517, 0530, 0531, 0533, 0536, 0537, 0541, whose effective date is August 16, 1995.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the Charlton Town Hall, 784 Charlton Road, Charlton, New York 12019

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

## Appendix B-11

**TOWN OF CHARLTON**  
**COUNTY OF SARATOGA**  
**STATE OF NEW YORK**

LOCAL LAW #3  
of the Year 1996

A LOCAL LAW ESTABLISHING RIGHT-TO-FARM LEGISLATION

Be it enacted by the BOARD of the TOWN of CHARLTON as follows:

Section 1. Legislative Intent and Purpose

The Board recognizes that the farming is an essential enterprise and an important industry, which enhances the economic base, natural environment and quality of life in Charlton. Therefore, the Town Board of Charlton finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day to day operations involved in farming.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusiness's, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in Charlton, it is necessary to limit the circumstances under which fanning may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

Section 2. Definitions

1. "Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.

"Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

3. "Agricultural products" shall mean those products as defined in section 301 (2) of Article

25AA of the State Agriculture and Markets Law, including but not limited to:

- a. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries, and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, and onions.

- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
  - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, fanned buffalo, fur bearing animals, mild, eggs and furs.
  - f. Woodland products, including maple sap, logs, lumber, posts, and firewood.
  - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
  - h. Aquaculture products, including fish, fish products, water plants and shellfish.
  - i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
4. "Farm woodland" includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
  5. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, manure application and construction and use of farm structures and fences.
  6. "Farm operation" shall be defined in section 301 (11) in the State Agriculture and Markets Law.

### Section 3. Right-to-Farm Declaration

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all such times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation.
2. Conducted in a manner, which is not negligent or reckless.
3. Conducted in conformity with generally accepted and sound agricultural practices.
4. Conducted in conformity with all local, state, and federal laws and regulations.
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. Conducted in a manner, which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlined in this section.

### Section 4. Notification of Real Estate Buyers and Prospective Neighbors

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that farming activities occur within the Town. Such farming activities may include, but not be limited to, activities that cause noise, dust, smoke and odors".

A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.

In addition, this notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law section 276.

### Section 5. Resolution of Disputes

- a. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiations between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and markets about whether the practice in question is sound pursuant the Section 308 of Article 25AA of the State Agriculture and Markets Law.
- b. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- c. The committee which be composed of three (3) members selected from the county including one representative from the County Agricultural and Farmland protection Board, one person from the town government selected by the Town Board, and one person mutually agreed upon by both parties involved in the dispute.
- d. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate and misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy. The parties are also encouraged to consult with agricultural experts such as New York State Agriculture and Markets, Cornell University, Cornell Cooperative Extension, Natural Resources Conservation Service, and Soil and Water Conservation district.
- e. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter, the committee may investigate the facts of the controversy but must, within twenty five (25) days, hold a meeting to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by

counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

- f. Any reasonable costs associated with the functioning of the committee process shall be borne by the participants. However, the prevailing participant shall be entitled to reasonable fees and other expenses incurred if the agricultural practice at issue constitutes a sound agricultural practice pursuant to an opinion issued by the Commissioner under section 308 of the New York Agriculture Districts Law.

#### Section 6. Severability Clause

If any part of this local law is for any reason held to be unconstitutional or invalid, each decision shall not affect the remainder of the local law. The Town hereby declares that it would have passed this local and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

#### Section 7. Precedence

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

#### Section 8. Effective Date

This Local Law shall be effective immediately upon filing with the Town of Charlton and the Secretary of State pursuant to section 27 of Municipal Home Rule Law and shall be filed with New York State Agriculture and Markets, New York State Department of Environmental Conservation and New York State Department of Health.

Effective December 24, 1996

## Appendix B-12

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

**AN ORDINANCE PROVIDING SAFEGUARDS FOR SWIMMING POOLS IN THE TOWN  
OF  
CHARLTON, COUNTY OF SARATOGA**

The Town of Charlton, acting through its duly constituted Town Board, for the protection of the Health, Safety and Welfare of its residents, particularly of small children and pursuant to the provisions of Section 130 of Town Law of the State of New York duly ordains as follows:

Section 1.

Definitions. For the purpose of this ordinance a "Swimming Pool" shall mean any permanent, artificially-constructed pool or structure which is wholly or partially constructed of masonry, brick, concrete, steel or other impervious material, having a maximum depth in excess of 18" and being located in a residential district as defined by the Town of Charlton Zoning Ordinance, as amended, or if not in a residential district, is within 300' of a residence, home or dwelling other than that occupied by the owner of the pool. For the purpose of this ordinance a "Swimming Pool" shall not include a pool not located in a residential district which is used primarily as a fire pond, stock watering pond or fishing pond.

Section 2.

After 30 days following the effective date of this ordinance, no person or persons, association, or corporation shall maintain a swimming pool in the Town of Charlton without first providing the following fence and gate for the general public safety and welfare.

- a. A permanent protective fence of masonry, wood, or chain link construction (maximum spacing 2" squares) at least 4' in height shall, exclusive of approved gates, completely enclose all pools and any pumping or filtering equipment unless such equipment is otherwise similarly enclosed.
- b. All gates shall conform to the standards set forth for fences. They shall additionally be equipped with a closing device with a protective fastening self-operating latch and locking device located at least 3' above ground. All gates shall be securely locked with a keyed lock or combination lock except when the pool is under the supervision of a responsible person of at least 16 years of age.
- c. Existing Pools. The provisions set forth in this section shall not be strictly applied to fences safeguarding swimming pools existing at the time this ordinance becomes effective. In such cases the Zoning Administrative Officer is hereby authorized and directed to approve such existing fences and gates, in his discretion, which

substantially comply with these provisions. If, in his discretion, any such existing pool fences or gates do not substantially comply with the provisions of this ordinance, he shall direct the owner or user thereof to erect fences and gates which are in compliance with this section. Such owners shall be given a reasonable time to comply, the time to be given being chosen in accord with the magnitude of the change required.

### Section 3.

No person or persons, association or corporation shall construct or use any swimming pool without first securing from the Zoning Administrative Officer a Building Permit and a certificate of compliance with this ordinance.

Applications for Building Permits shall conform to the requirements set forth in the Town of Charlton Zoning Ordinance. For the purpose of such permits a swimming pool shall be considered an Outbuilding; it shall not be constructed except in a rear yard as defined by the said Zoning Ordinance, and it shall conform to rear and side line setbacks as set forth in said Zoning Ordinance.

The following requirements shall, in addition to the requirements of Sec. 2 herein, be met to the satisfaction of the Zoning Administrative Officer prior to issuance of a Building Permit or Certificate of Compliance.

- a. A Filter recirculating pump and purification system shall be provided so as to maintain the bacterial standard established by the Provisions of the New York State Sanitary Code relating to Public Swimming Pools.
- b. If the water for such pool is to be connected to a potable water system, either municipal or private, there shall be no water-tight physical connection between the pool inlet and the water system. The pool inlet in such instance shall be above the overflow level of the pool by at least 6 inches.

### Section 4.

In determining whether the inlet, filtration, recirculation and drainage requirements set forth herein are met upon application, the Zoning Administrative Officer shall be guided by the specifications furnished by the pool manufacturer or contractor. If no such specifications are available the Zoning Administrative Officer may require a Certificate from a Civil Engineer licensed by the State of New York.

### Section 5.

All safety and health provisions set forth herein as necessary for the issuance of Building Permits and Certificates of Compliance shall be required as a condition to the continued use of any swimming pool and the responsibility for such continued compliance shall be borne by the owner or operator of any pool located in the Town of Charlton.

### Section 6.

Severability. Each section of this ordinance is deemed to be separate and independent. Should any provision thereof be found to be invalid for any reason, it shall not affect the validity of the remainder of the ordinance.

Section 7

Any person or persons, association or corporation which shall violate any provision of this ordinance shall be fined not less than Ten dollars (\$10.00) and not more than One hundred dollars (\$100.00) for each offense; and a separate and additional offense shall be deemed committed on each day during which a violation continues, subsequent to notice of an initial offense.

Section 8.

This ordinance shall take effect upon publication and posting or personal service in the manner prescribed by the Town Law of the State of New York.

DATED: SEPTEMBER 17, 1964 seconded by Councilmen

*Appendix B-13*

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

**LOCAL LAW # XX  
of the Year 2014**

**A LOCAL LAW RELATING TO TELECOMMUNICATIONS TOWERS IN THE TOWN OF  
CHARLTON**

*Be it enacted by the Town Board of the Town of Charlton as follows:*

*Section 1.*

*(a) All telecommunication towers, their location, construction, use and regulation in the Town of Charlton shall be governed by this Local Law.*

*(b) The following definitions shall apply to this Local Law:*

*(i) Telecommunication Tower - A structure which is capable of receiving and/or transmitting signals (for the purpose of communication).*

*(ii) Telecommunications Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.*

*(iii) Telecommunications Accessory Facility - A facility that serves the Telecommunication Tower ~~principal use, is subordinate in area, extent and purpose to the principal use,~~ and is located on the same lot or parcel as the Telecommunication Tower ~~principal use~~. Examples of such facilities include transmission equipment and storage sheds.*

*Section 2.*

*(a) Purpose:*

*The purpose of these regulations is to promote the health, safety and general welfare of the residents of the Town of Charlton; to provide standards for the safe provision of telecommunications consistent with applicable Federal and New York State regulations; to minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers, and the shared use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment, and appropriate landscaping.*

*(b) Review and Approval Agency:*

*(i) No telecommunications facilities shall hereafter be used, operated, erected, moved, reconstructed, changed or altered in the Town of Charlton except after approval and issuance of an Exceptional Use Permit according to the procedures and conditions of these regulations.*

*(ii) The Board having jurisdiction shall obtain the written opinion of the Town Environmental Conservation Commission regarding all aspects of any telecommunications facility application. Siting of the tower, visual screening, and all environmental issues are particular areas where the Environmental Conservation Commission input will be considered.*

### Section 3.

*(a) Application of Exceptional Use Permit Regulations:*

*(i) No telecommunication facility, except those approved prior to the effective date of this section, shall be erected moved, reconstructed, changed or altered unless in conformity with these regulations. Telecommunication towers or antennae less than fifty (50) feet in height above grade level; used exclusively by licensees of the Federal Communications Commission in the Amateur Radio Service; and installed at the licensee's residence shall be exempt from these regulations. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with these regulations.*

~~*(ii) Applicants proposing to co-locate on a previously approved telecommunication tower do not required a special permit. A building permit is required. Such applicants are required to conform to the existing approved site plan for the approved tower. The Zoning Enforcement Officer may require the applicant to submit any of the items which are part of the Site Plan Review Process set forth in this Local Law.*~~

*(iii) These regulations shall apply to all property within the Town of Charlton.*

*(iv) Telecommunication facilities shall not be permitted in the Historic District or Residential Districts. The only exception to this restriction shall be the use of the current Town of Charlton public water storage tank, which is located in a Residential District.*

*(v) Applications for construction of new telecommunication facilities shall comply with the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated with Federal Aviation Regulations (FAR), Part 77, as such may be amended from time to time. Additionally, no application for construction of a new telecommunication tower will be approved if the proposed tower violates the criteria for obstructions to air navigation as established by FAR, Part 77, Sub-Part C-Obstructions Standards. This includes non-FAR private airports located within the Town, if any.*

*(vi) Applicants shall submit a complete application which will contain the*

*following:*

- 1. Each applicant is required to establish an escrow account to pay for any reviews during the application process which may be required by the Board of Appeals having jurisdiction to fully evaluate the applicant's proposal. Such fees may include services to be rendered by the Town Engineer, the Town Attorney or any other professional whose experience and expertise is determined to be required by the Board in order to evaluate the application. As the review of the application continues and it is determined that additional escrow funds are required, the applicant will be notified by the Code Enforcement Officer/Zoning Administrator ~~Town of Charlton ZBA~~ in order to maintain sufficient funds to pay for required professional services on behalf of the Town.*
- 2. Twenty (20) copies of a completed application form.*
- 3. Twenty (20) copies of ~~Part I of the New York~~ a SEQRA Full Environmental Assessment Form (FEAF).*
- 4. Twenty (20) copies of the site plan or map and all supporting documentation. The application will only be accepted if the site plan/map contains all required information.*
- 5. Twenty (20) copies of the Visual Environmental Assessment Form Addendum.*
- 6. Twenty (20) copies of a grading plan for new structures and roads.*
- 7. Documentation on the proposed intent and capacity of the facility, as well as a justification for the height of the tower and the amount of clearing to be undertaken.*
- 8. Map and documentation showing the anticipated signal coverage of the facility, and the expected needs for additional facilities within the Town over the next five (5) years.*
- 9. Documentation substantiating that the applicant has explored usage of existing towers, tall structures and approved tower sites as an alternative to a new tower at a new tower site. The documentation must include the financial, technical and/or physical reasons for not selecting an alternative tower, tall structure or tower site.*
- 10. A copy of the applicants's Federal Communications Commission (FCC) license.*
- 11. A copy of the applicant's Certificate of Need from the Public Service Commission, or in the absence of a Certificate of Need, demonstration that the applicant has applied for a public utility license.*

12. A “Zone of Visibility” map to determine where the tower may be seen.

13. Pictorial representations of “before and after” views from key viewpoints both inside and outside of Charlton. Key viewpoints include, but are not limited to: interstate and state highways and other major roads, state, county and local parks and preserves, other public lands, historic sites normally open to the public, areas with a large concentration of residences and any other locations where the site is visible to a large number of visitors or travelers. The Zoning Board of Appeals will determine the appropriate key sites at the pre-submissions concept review with the application.

14. Assessment of alternative facility designs and color schemes to the design submitted.

15. A letter of intent signed by the applicant that the current facility owner and his/her successors will negotiate in good faith for shared use of the proposed facility by future personal wireless service providers and that the tower will be designed to accommodate additional users.

16. A letter of intent signed by the applicant committing the current facility owner and his/her successors to notify the building inspector within thirty (30) calendar days of the discontinuance of use of the facility.

17. Documentation proving that the applicant has notified the legislative bodies of every municipality that borders Charlton of their application for a new facility (Montgomery County, Amsterdam; Schenectady County, Glenville; Saratoga County, Ballston, Ballston Spa, Galway).

18. An evaluation of the proposed facility’s radio frequency emissions to confirm compliance with Federal Maximum Permitted Exposure Levels.

19. An Air Safety Analysis in compliance with FAR, Part 77 and FCC Rules, Part

(b) Shared Use of Existing Tall Structures. Shared use of existing tall structures (for example, municipal water towers, multi-story buildings, church steeples, farm silos, etc.) and existing or approved towers shall be preferred to the construction of new towers.

(i) An applicant proposing to share use of an existing tall structure shall be required to submit:

1. A completed application for a special use permit. (See Section 3(vi) of this Local Law)

2. Documentation of consent from the owner of the existing facility to allow shared use.

3. *Site plan: The site plan shall show all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.*

4. *An engineer's report certifying that the proposed shared-use will not diminish the structural integrity and safety of the existing tall structure, and describing what modifications, if any, will be required in order to certify to the above.*

5. *A completed Environmental Assessment Form (EAF) and a completed Visual EAF Addendum.*

6. *A copy of Federal Communications Commission (FCC) license.*

*(ii) If an applicant proposing to share use of an existing tall structure submits complete documentation in accordance with Section 3(b)(i) above, and if modifications indicated according to Section 3(b)(i) are deemed insignificant by the Zoning Board of Appeals, and after the Zoning Board of Appeals conducts a public hearing and complies with all SEQRA provisions, the Board shall grant a special use permit without further review under this section. If the Board determines that any modifications indicated according to Section 3(b)(i) are significant, it may require further review as set forth below.*

*(c) New Communications Tower. The Board may consider a new telecommunication facility when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Toad in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared-use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared-use shall be provided.*

*(d) Shared Usage of an Existing Tower Site for Placement of a New Tower. Where shared-use of exiting tall structures or existing and approved towers is found to be impractical, the applicant shall investigate shared-usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Section 3(b) above. Any proposals for a new telecommunications tower on an existing tower site shall also be subject to the requirements of this Local Law.*

*(e) New Tower at a New Location. The Board may consider a new telecommunications tower on a site not previously developed with existing tall structures or existing and approved towers when applicant demonstrates that existing structures or sites impractical and submits a report as described in Section 3(b) above. When the Board determines that shared use of an existing tower site for a new tower is undesirable based upon the applicant's*

*investigation of existing towers and sites the proposed new telecommunication tower shall be subject to the requirements of Section (f) through (g) below.*

*(f) New Towers: Future Shared Use. The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a signed letter of intent committing the owner of the proposed new tower or successors in interest to negotiate in good faith for shared-use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Code Enforcement Officer/Zoning Administrator prior to issuance of a building permit. Failure to abide by the commitments outlined in the letter shall be grounds for revocation of the special use permit. The letter shall commit the new tower owner or successor in interest to:*

*(i) Respond within 90 calendar days to a request for information from a potential shared-use applicant.*

*(ii) Negotiate in good faith concerning future requests for shared-use of the new tower by all interested telecommunications providers.*

*(iii) Allow shared-use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but not be limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shares user without causing electromagnetic interference.*

*(g) Site Plan Review: Submission Requirements.*

*(i) An applicant shall be required to submit a site plan in accordance with the Zoning Ordinance of the Town of Charlton, Appendix B-5, Number 2a. of Town of Charlton Local Law #1 of Year 1979, page 109, entitled Site Plan Review. The site plan shall show all existing and proposed structures and improvements including road, buildings, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.*

*(ii) Supporting Documentation: The applicant shall submit an Environmental Assessment Form, Visual EAF Addendum, and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.*

*(iii) The Planning Board shall submit an advisory opinion to the Board based upon a review conducted in accordance with the criteria outlined in Numbers 2 b, c, and d of Town of Charlton Local Law #1 of Year 1979, as referenced in paragraph (g)(i) above.*

*(h) Lot Size and Setbacks. All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain, on-site, all ice-fall or debris from tower*

*failure and preserve the privacy of any adjoining residential properties.*

*(i) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased the entire area required shall be leased as a single parcel unless the Board determines that this provision may be waived.*

*(ii) Telecommunication towers shall comply with all existing setback requirements of the zoning district in which located, or shall be located with a minimum setback from any property line in which located a distance equal to the full height of the tower, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the zoning district.*

*(i) Visual Impact Assessment. The applicant will undertake a visual impact assessment including:*

*(i) A “Zone of Visibility Map” shall be provided in order to determine locations where the tower may be seen.*

*(ii) Pictorial representations of “before” and “after” views from key viewpoints both inside and outside of the town (or village or city) including but not limited to: state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. Representations depicting the site in winter are preferred. The Board shall determine the appropriate key sites at a pre-submission conference with the applicant.*

*(iii) Assessment of alternative tower designs and color schemes, as described in subsection (j) below.*

*(iv) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.*

*(j) New Tower Design. Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:*

*(i) Any new tower shall be designed to accommodate future shared use by other telecommunications providers.*

*(ii) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.*

*(iii) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.*

(iv) *The Board may request a review of the application by a qualified engineer in order to evaluate the need for, and the design of, any new tower. The cost of this review shall be borne by the applicant.*

(v) *Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.*

(vi) *No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to; company name, phone numbers, banners, and streamers.*

(k) *Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground), shall take place prior to the approval of the Exceptional Use Permit.*

(l) *Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required as determined by Board.*

(m) *Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.*

(n) *Parking. Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number of required spaces based upon a recommendation from the applicant.*

(o) *Fencing. The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the Board. This requirement may be waived by the Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.*

(p) *Lighting. The FCC and the FAA regulations may require lighting of the tower. The requirement for lighting or strobe lighting may provide grounds for denial of the Exceptional Use Permit application.*

(q) *Removal. The applicant shall submit to the Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Code Enforcement Officer/Zoning Administrator within thirty (30) calendar days of the discontinuance of use of the tower. This letter shall be filed with the Code Enforcement Officer/Zoning Administrator prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be in violation of this chapter.*

(r) Removal Bond. A removal bond in the amount of \$100,000.00, and a Certificate of Insurance naming the Town of Charlton as an additional insured will be required. These items will be reviewed annually, with written notification to the Town Board. Failure to maintain these items will result in termination of the Exceptional Use Permit and the Town Board shall review the cost of removal every three (3) years. At that time, if the cost exceeds the bond, then the Town advise the applicant and require an increase of the bond. If the removal cost estimate is less than \$100,000.00, the bond shall continue in full force and effect until the next three (3) year renewal period.

(s) Inter-Municipal Notification for New Towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County 911 Services, the Board shall require that:

(i) An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders the Town of Charlton, the Saratoga County Planning Board, and the Director of Saratoga County Emergency Services. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.

(ii) Documentation of this notification shall be submitted to the Board at the time of application.

(t) Notification of Nearby Landowners. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within twenty-five hundred (2500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail. Documentation of this notification shall be submitted to the Board prior to the public hearing.

#### Section 4. Special Use Permit Procedures:

~~—The Zoning Board of Appeals shall process the special use permit application in the same manner as set forth in the Charlton Zoning Law with respect to Exceptional Use Permits. Following completion of this process, the Zoning Board of Appeals shall grant or deny the application. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications tower site plan and special use permit.~~

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances and the Town Board of the Town of Charlton hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 45. Repeal Clause.

*All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.*

Section 56. Effective Date.

*This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.*

*Appendix B-14*

**TOWN OF CHARLTON  
COUNTY OF SARATOGA  
STATE OF NEW YORK**

*LOCAL LAW # XX  
of the Year 2014*

**A LOCAL LAW REGULATING THE USE OF GROUND OR POLE MOUNTED SOLAR ARRAYS  
IN THE TOWN OF CHARLTON**

*Be it enacted by the Town Board of the Town of Charlton as follows:*

**Section 1. Title and Authority.**

*This local law shall be known as the “Local Law Regulating the Use of Solar, Ground or Pole Mounted Solar Array within the Town of Charlton”. It is adopted pursuant to the authority of Article 2 and Article 3 of the New York State Municipal Home Rule Law.*

**Section 2. Purpose & Intent.**

*A. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.*

*B. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Charlton’s current and long-term sustainability agenda.*

*C. The ordinance aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.*

*The purpose of this legislation is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. In particular, this legislation is intended to apply to freestanding, ground mounted or pole mounted solar energy system installations over a certain height and based upon certain placement. This legislation is not intended to override agricultural exemptions that are currently in place.*

**Section 3. Definitions.**

*As used in this local law, the following terms shall have the meanings as indicated:*

***Accessory Structure*** - *A structure, the use of which is customarily incidental and subordinate to*

*the principal building, and is located on the same lot or premises as the principal building.*

**Alternative Energy System** – *Structure, equipment devices or construction techniques for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or separate from the principal structure.*

**Building-Integrated Photovoltaic (BIPV) Systems** - *A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.*

**Collective Solar** - *Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.*

**Flush-Mounted Solar Panel** - *Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.*

**Net-Metering** - *A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.*

**Permit Granting Authority** – *The Town of Charlton authority authorized to grant permits for the installation of alternative energy systems.*

**Photovoltaic (PV) Systems** - *A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.*

**Qualified Solar Installer** - *A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEERDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town of Charlton determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.*

**Rooftop or Building Mounted Solar System** - *A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.*

**Setback** – *The distance from a lot line of a parcel within which a free standing or ground mounted solar energy system is installed.*

**Small-scale Solar** - For purposes of this Ordinance, the term “small-scale solar” refers to solar photovoltaic systems that produce up to twenty five (25) kilowatts (kW) per hour of energy, or solar-thermal systems which serve the building to which they are attached, ~~and do not provide energy for any other buildings.~~

**Solar Access** - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**Solar Collector** - A solar photovoltaic cell, panel or array or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air or water.

**Solar Easement** - An easement recorded pursuant to NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

**Solar Energy Equipment/System** - Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

**Solar, Ground or Pole Mounted Solar Array** – Any solar collector, controls, solar energy device, heat exchanges or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

**Solar Panel** – A device for the direct conversion of solar energy into electricity.

**Solar Storage Battery** - A device that stores energy from the sun and makes it available in an electrical form.

**Solar-Thermal Systems** - Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

#### **Section 4. Applicability.**

A. The requirements of this local law shall apply to all solar collective system installations modified or installed after the effective date of this local law.

B. Solar collector system installations for which a valid building permit has been issued or for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.

C. All solar collective systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Town of Charlton Building Code.

*D. Solar collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net metering” arrangement in accordance with New York Public Service Law Sec. 66-j or similar State or Federal law regulation.*

**Section 5. Permit Required.**

*A. Small-scale rooftop and building-mounted solar collectors shall require a building permit from the Town of Charlton Code Enforcement Officer/Zoning Administrator. The Code Enforcement Officer/Zoning Administrator shall have sole authority for determining compliance of the installation with State Building codes related to such structures. A building permit shall not be required for Flush-Mounted Solar Panels.*

*B. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted outright in all zoning districts.*

*C. Small-scale ground or pole mounted solar arrays are permitted as accessory structures in all zoning districts of the Town of Charlton subject to the following conditions which shall be processed and enforced as follows:*

*a. Building Permits shall be required for the installation of all ground-mounted solar collectors.*

~~*b. Site Plan Review by the Planning Board shall be required for the installation of all ground-mounted solar collectors.*~~

*be. The location of the solar collectors shall be subject to the following minimum setback requirements and limitations set forth in this provision:*

*i. Residential Districts*

- Side Yard Setback: 50 feet*
- Rear Yard Setback: 50 feet*
- No ground mounted or free standing solar collectors shall be permitted in the Front Yard*

*ii. Residential/Agricultural Districts*

- Side Yard Setback: 50 feet*
- Rear Yard Setback: 50 feet*
- Front Yard Setback: 200 feet*

*iii. Agricultural Districts*

- Side Yard Setback: 50 feet*
- Rear Yard Setback: 50 feet*
- Front Yard Setback: 200 feet*

d. *The height of the solar collector and any mounts shall not exceed twenty (20) feet.*

e. *Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.*

f. *Supporting structural members and the area beneath freestanding solar energy collectors shall be reasonably screened from view from neighboring residences and public right of ways where practical, through the use of architectural features, earth berms, landscaping, or other screening which harmonizes with the character of the property and surrounding area.*

*The Code Enforcement Officer/Zoning Administrator ~~Planning Board~~ shall have authority to determine compliance with the requirements set forth in this provision ~~and shall have approval authority with respect to the screening requirement set forth above.~~ Consideration shall be made regarding glare or other adverse effects on neighboring properties when determining compliance with these provisions.*

C. *Solar energy systems and equipment shall be permitted only if they are determined by the Code Enforcement Officer/Zoning Administrator ~~Town of Charlton~~ not to present any unreasonable safety risks, including, but not limited to, the following:*

1. *Weight load*
2. *Wind resistance*
3. *Ingress or egress in the event of fire or other emergency.*

D. *Installations in the Historic Overlay District shall require a certificate of appropriateness from the Town of Charlton Historic District Commission.*

### **Section 6. Safety.**

A. *All solar array installations must be performed by a qualified solar installer if the installation is by other than the homeowner.*

B. *All electrical connections must be inspected by the Code Enforcement Officer/Zoning Administrator and by an electrical inspection person or agency as determined by the Code Enforcement Officer/Zoning Administrator in compliance with the State Building Code.*

C. *Any connection to the public utility grid must be inspected by such public utility.*

D. *Solar energy systems shall be maintained in good working order and condition. Such arrays shall be removed if not in use for more than 12 months. The Code Enforcement Officer/Zoning Administrator shall have authority to determine and enforce compliance with this provision.*

E. *Rooftop and building mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.*

*F. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town of Charlton and other applicable laws and regulations.*

*G. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 calendar days after the end of the 12 month period.*

**Section 7. Appeals.**

*A. If an individual is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Town of Charlton Zoning Ordinance with respect to enforcement of Ordinance provisions by the Code Enforcement Officer/Zoning Administrator.*

*B. If a building permit for a solar energy device is denied by the Code Enforcement Officer/Zoning Administrator of the Town of Charlton, based on the terms and conditions of this Ordinance, the applicant may seek relief from the Town of Charlton Zoning Board of Appeals, following the standards and procedures applicable to an area variance as described in said Charlton Ordinance.*

**Section 8. Severability.**

*The provisions of this local law are severable and the invalidity of a particular provision shall not invalidate any other provision.*

**Section 9. Placement as Appendix B-14 to Charlton Zoning Ordinance**

*This local law shall become a part of the Zoning Ordinance for the Town of Charlton as adopted November 13, 2000 and placed as Appendix B-14 of such Ordinance.*

**Section 10. Effective Date.**

*This law shall be effective upon filing with the Secretary of State.*