

## APPLICATION FOR SPECIAL USE PERMIT

**Instructions:** Fully complete this application. Write "NA" when "non - applicable."  
complete with fee, shall be filed with the Town Clerk, 44 Grand Street, Sidney, NY 13838, who will file a copy with the Planning Board secretary.

Tax Map Parcel No. \_\_\_\_\_ Address: \_\_\_\_\_

Applicant(s) Name: \_\_\_\_\_

The applicant  is  is NOT the owner of property above:

Request:

The applicant requests a special use permit for the above described property for the following reasons: (Add additional pages if necessary)

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Describe in full detail all services offered, activities, facilities, alcohol, food etc. associated with the parcel : If it is not listed, it is not included in the Special Use Permit. (Add additional pages if necessary)

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Compliance with Special Use Requirements:

How will the applicant comply with the standards prescribed in Sections 1000 through 1107? (Add additional pages if necessary)

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E. Environmental Review.

Attach a completed Part I of the Environmental Assessment Form (EAF) using the

(check one): ( ) Short Form or ( ) Long Form. Forms are available from the zoning enforcement officer.

Applicant Signature (s): \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Telephone No. \_\_\_\_\_

If you're are renting or leasing, please indicate the name of owner (s) of the property:

Name: \_\_\_\_\_

Address: \_\_\_\_\_,

City: \_\_\_\_\_, State: \_\_\_\_\_,

Zip: \_\_\_\_\_, Telephone: \_\_\_\_\_

Return this application, the SEQR form, drawings, and the appropriate fee to:  
**Code Enforcement Officer, Town of Sidney, 44 Grand Street, Sidney, NY 13838**

For Office Use Only

Application No. TOSP- \_\_\_\_\_ Delivery Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Official Date of Receipt \_\_\_\_/\_\_\_\_/\_\_\_\_ Date of Public Hearing \_\_\_\_/\_\_\_\_/\_\_\_\_

D a t e o f F i n a l A c t i o n \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

D a t e o f F i l i n g D e c i s i o n w i t h T o w n C l e r k \_\_\_\_/\_\_\_\_/\_\_\_\_

# **Article X**

## Standards for Special Use Permits

## Section 1000 - General Provisions

The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Local Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

## Section 1001 Procedure

- (A) Completed applications for special use permits shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Town Planning Board. Applications may be made by the owner of the property or other person with written approval of the owner.
- (B) A site plan prepared in accordance with Article 900 of this Local Law and as required by 6 NYCRR Part 617 shall be submitted with any application for a special permit.
- (C) Within sixty-two (62) days after the Town Planning Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date thereof.
- (D) Within sixty-two (62) days of the public hearing the Town Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant. If no decision is made with this timeframe the application is automatically denied.

A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this Local Law.

## Section 1002 – Expiration

A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more for 1 year or if the use permit is not implemented within 1 year of approval the applicant may apply for an extension for circumstances beyond the control of the applicant for up to one year.

### **Section 1003 - Standards Applicable To All Special Uses**

- A. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use, the location of the site with respect to the existing or future streets giving access to it, and the location, nature and height of buildings, walls and fences shall be such that the special use:
  - 1. The Planning board may request an appraisal be conducted if requested during a public hearing or by neighboring property owners.
  - 2. May not create a hazard to health safety, morals or the general welfare
  - 3. May not be detrimental to the neighborhood or to the residents thereof
  - 4. May not alter the essential character of the neighborhood
  - 5. May not otherwise be detrimental to public convenience and welfare
  
- B. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of sound, fumes, vibrations, or light, than would be the operation of permitted use. Nor shall the operations be detrimental to the environment.

### **Section 1004 - Conditions and Restrictions**

- 1. The Town Planning Board in granting special use permits may impose such conditions, safeguards and restrictions upon the proposed uses as may be deemed necessary in the public interest to secure compliance with the provisions of this Local Law. Conditions may include, but need not be limited to, the following:
  - A. Hours of operation
  - B. Access to the subject property
  - C. Protection of surface and groundwater
  - D. Lighting of the site so as not to adversely affect adjacent or nearby property owners
  - E. Noise or sound limitations as needed to insure peaceful enjoyment of neighbors
  - F. Control of dust, smoke, odor and soil erosion
  - G. Adequate subsurface disposal system and water supply according to any state, county, city, or local regulation
  - H. The location, size, height, design of building walls, fences, signs, landscaping and buffer yards
  - I. Timing or phasing of the project
  - J. Underground utilities

### **Section 1013 Manufactured Home Parks -**

- 1. Location - A manufactured home park will be permitted in the Town of Sidney after the Town Board has determined that the provisions of this Section 1013 have been complied with, has received a site plan review report from the Town Planning Board and has authorized the Code Enforcement Officer to issue a Home Park Permit therefore.

2. Permit Application - Application for a permit for a home park shall be submitted to the Code Enforcement Officer in triplicate and shall include:
- a) Name and address of applicant along with tax map number.
  - b) Name and address of the owner of land upon which the park is to be located.
  - c) Location map showing how the park relates to the existing road system.
  - d) Preliminary plan of the park showing how the overall design is in accordance with the environmental standards set forth in Section 1013.4 of this Article X-A.
  - e) Provisions for water supply and sewage disposal in accordance with the provisions of Section 7-1.50 of the State Sanitary Code as set forth in Section 1013.4m and n of this Article X-A.
  - f) Topography and soils of the site including all areas which are wet or subject to flooding. Topography maps from the County Planning Department or the United States Geologic Survey shall be adequate. These maps must show a minimum level of detail of 2 foot contours for the project site.
  - g) Proposed cross-section design of park roadways and proposed lots.
  - h) A statement of all contemplated rules, regulations, restrictions and covenants applying in the park including requirements reside the park, management and tenant responsibilities, entrance or departure fees, utility connection fees and security deposits.
  - i) Any additional information which the developer feels will help the Planning Board in its review of the proposed park.

### 3. Procedure -

- a) The Code Enforcement Officer shall transmit one copy of the application to the Town Board and one to the Planning Board for site plan review and shall retain the third copy.
- b) Within 45 days from receipt of the application the Planning Board shall have a conference with the developer to discuss the preliminary plan and the required environmental standards applicable thereto.
- c) Within 45 days from the developer's conference, or a mutually agreed extension thereof, the Planning Board shall transmit its comments and recommendations on the site plan to the Town Board.
- d) The Town Board shall hold a duly advertised public hearing on the proposed home park at which hearing any Planning Board comments and recommendations shall be made a part of the record.
- e) The Town Board shall conditionally approve or disapprove the application within 45 days from the public hearing. An action which is contrary to any Planning Board recommendation shall be passed by a favorable vote of a majority plus one of the Town Board.
- f) Upon conditional approval of the application by the Town Board, the applicant shall proceed with the final plans incorporating any conditions attached to said conditional approval.
- g) Final site plans for the proposed home park, or a portion of it if construction is to be staged, shall be submitted to the Planning Board for approval within one year from the date of conditional approval by the Town Board or such conditional approval may be withdrawn by the Town Board.
- h) Upon final site plan approval by the Planning Board a Home Park Permit shall be issued by the Code Enforcement Officer. Such permit shall be temporary and must be renewed every two years after issuance.
- i) The Code Enforcement Officer shall be notified before water and sewer trenches are filled so that such installations may be inspected. The Code Enforcement Officer may make other inspections deemed necessary during construction of the home park.

- j) When construction is completed in accordance with the final plan as approved by the Planning Board, an operations permit shall be issued by the Code Enforcement Officer.

#### 4. Environmental Standards -

In reviewing proposed home park site plans the Planning Board shall use the following environmental standards as guidelines:

- a) Density and Lot size. The density of development in a home park shall not exceed 5.0 units per gross acre of site to be developed. Home lots shall have a minimum area of 7,000 square feet and a minimum width of 55 feet.
- b) Separation. Home unit may be positioned in a variety of ways within a park provided that a separation of at least 30 feet is maintained between the extremities of any two units.
- c) Setback. No home shall be located less than 25 feet from the pavement edge of a private street or 25 feet from the right-of-way of any public street within the home park. A minimum of 30 feet shall be maintained between home units and all park boundary lines except that at least 60 feet shall be maintained between all units and any park boundary abutting an existing public road, highway or railroad.
- d) Road Layout and Construction. A drawing of the proposed park layout, showing connections to be made to existing roads, shall be included as part of the home park plans. Attempts should be made to provide variety and visual interest in the road layout, avoiding long straight stretches and gridiron systems when possible. The paved surface of all private roads within a home park shall be at least 20 feet wide and construction specifications shall be approved by the Town Highway Superintendent. Any public roads that may fall within the park shall have a 50 feet right-of-way and be constructed to Town specifications.
- e) Parking. Two off-street parking spaces shall be provided for each home site. Such spaces may be located on the individual lot or grouped to serve two or more home sites. Off-street parking spaces shall be constructed of at least a 4 inch compacted gravel base with a 1 inch hard surface material. A supplemental parking area for the group storage or temporary parking of travel trailers, campers, boats, snowmobiles, and similar auxiliary vehicles shall be provided in each home park in a location removed from the home living units. Such area shall be large enough to provide at least one space for every two units.
- f) Recreation and Open Space. Usable and easily accessible recreation areas shall be provided for park occupants. At least 400 square feet of open space per home unit shall be included in the plan with a total minimum requirement of 10,000 square feet.
- g) Foundation. Each home site shall be provided with a permanent foundation within NYS Uniform, Fire Prevention and building codes with footers below the frost line or with a stand and support capable of providing a firm base and containing the home in a stable position. Such stand shall have a dimension equal to the width and length of the home and any expansions or extensions thereto and shall be a full size concrete slab at least 6 inches thick.
- h) Tie Downs. Each home site shall be provided with anchors or tie-downs, at least at corners, attached to concrete footings installed below the frost line or imbedded in concrete runners or a concrete slab which may be provided as the home stand.
- i) Patio. Each home site shall be provided with a concrete patio with a minimum width of 10 feet and a total area of at least 120 square feet.

- j) Walkways. Each home site shall be provided with a walkway from the foundation or patio to the street or to a driveway or to a parking area connecting to the street. Such walkway shall be at least 18 inches wide and 4 inches deep constructed with a crushed stone base and a hard surface.
- k) Landscaping. Exposed ground surfaces in all parts of a home park shall be paved, surfaced with crushed stone or other solid material or protected with grass or plant material to prevent erosion and reduce dust. At least one tree shall be planted on each home lot if no such tree already exists. Planted trees shall have a caliper of at least two inches three feet above the ground.
- l) Home Installation. At the time of installation, the home unit shall be securely blocked, leveled, tied down, and connected to the required utility systems and support services. The home shall be completely skirted within 120 days of occupancy. Materials used for skirting shall provide a finished exterior appearance and no exposed wallboard, building paper or similar unfinished material will be permitted.
- m) Water Supply. If public water is within 500 feet and available, the home park must be hooked to such system. When a public water supply is not available an approved private supply and system shall be established in accordance with the following NYS Department of Health Standards.
  - i. A minimum rate of 200 gallons per day per home site shall be provided at a minimum pressure of 20 pounds per square inch at peak demand.
  - ii. A water service connection consisting of a service box with a shutoff valve installed below the frost line and a three-quarter riser pipe shall be supplied to each home site. Surface drainage shall be diverted from the connection. The design and construction of all components of such systems shall be subject to the inspection and approval of the Code Enforcement Officer and the New York State Health Department.
- n) Sewage Disposal. If public sewerage is within 500 feet and available, the home park must be hooked to such system. When public sewage disposal is not available an approved private system shall be established in accordance with the following standards:
  - 1) Sewage disposal systems shall be designed to accommodate a minimum flow of 200 gallons of waste water per day per home site.
  - 2) Each home site shall be provided with a four inch sewer line below the ground surface and a riser pipe. A non-collapsible and semi-rigid connecting pipe shall be provided from the riser pipe to the home. All connections shall be watertight. The design and construction of all components of such system shall be subject to the inspection and approval of the Code Enforcement Officer and the New York State Health Department.
- o) Solid Waste Disposal. Provisions shall be made and approved for the storage, collection, and disposal of solid waste in a manner that will cause no health hazards, rodent harborage, insect breeding areas, fire hazards or air pollution. Storage areas for solid waste containers shall be enclosed or otherwise screened from public view.
- p) Lighting. Home parks shall be provided with lighting sufficient to illuminate streets, driveways and walkways. Decorative lighting fixtures shall be used wherever possible.

- q) Electricity and Telephone. The distribution system for electrical and telephone service shall be installed underground and shall comply with the requirements of the utility and telephone company.
- r) Fuel Systems. Home parks shall be provided with facilities for the safe storage of necessary fuels. Natural gas installations, if used, shall be planned and installed so that components and workmanship comply with the requirements of the American Gas Association, Inc. Fuel oil systems shall be designed, constructed, inspected and maintained in conformance with the provisions of NFPA Section 30
- s) Association, Standard 30. Liquefied Petroleum Gas systems shall be selected, installed and maintained in compliance with the requirements of National Fire Protection Association, Standard 58 and the NYS uniform Fire Prevention and Building Code.
- t) Fire Protection. If public water is available and sufficient enough to supply water to a fire hydrant, fire hydrants systems shall be installed at the expense of the developer.
- u) Mail Service. Mailbox location shall provide safe and easy access for the pickup and delivery of mail. Mailboxes grouped for cluster delivery shall be located so that stopping for pickup and delivery will not occur on the public right-of-way.
- v) In reviewing the site plan for a home park the Planning Board may approve changes in the environmental standards of this section if the board is satisfied that the spirit and intent of this Section 1013 is not being violated and that any proposed change equivalent to, or better than, the standards set forth herein.

#### 5. Park Operation and Maintenance -

- a) Occupancy. No space shall be rented on any parcel for placement of a travel or camping trailer or a recreation vehicle except for
  - 1. A permitted campground
  - 2. For a period no longer than 2 weeks
- b) Responsibilities of Park Operator. The person to whom a Home Park Permit is issued shall be responsible for operation of the park in compliance with this Section 1013 and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition. The park operator shall maintain a register containing the following information for each home in the park:
  - 1. Name of occupant.
  - 2. Name and address of owner if different than occupant.
  - 3. Date of arrival of home and occupant.
  - 4. Date of departure of home and occupant.
  - 5. Make of home and evidence that it bears a New York seal or equivalent (Serial number, etc.)

Such register shall be available to any authorized person inspecting the park.

- c) Responsibility of Park Occupants. Each park occupant shall be responsible for the maintenance of the home occupied and any appurtenances thereto, and shall keep all yard space on the rented site in a neat and sanitary condition.
- d) A list of owner and occupant responsibilities shall be posted in the park rental office.
- e) Park owners shall produce and maintain an accurate park map depicting in locations of all homes within the park in number sequence. Such map shall be provided to the code enforcement office and fire department.

6. Inspection and Enforcement -.

- a) Inspection. It shall be the duty of the Code Enforcement Officer to make the inspections required for a certificate of occupancy and for renewal of the Home Park Permit every two years. Such inspection shall be carried out at reasonable times, after prior notice to the park operator, and in emergencies, whenever necessary to protect the public health, safety or welfare.
- b) Order. Upon determination by the Code Enforcement Officer that there has been a violation of any provision of this Section 1013, he shall serve upon the holder of the Home Park Permit an initial order to remedy in accordance to the New York State Uniform Fire Prevention and Building Code.

**Section 1014. Health Department Approval —**

Any provision of this Article X-A to the contrary notwithstanding, no building permit for a home park, or a single home not in a home park, will be issued until State Health Department approval has been obtained for the design of any private water system or sewage disposal system involved.

No approval for a home park will be granted without approval from the New York State Department of Health.

**ARTICLE XI**  
**SUPPLEMENTAL REGULATIONS AND**  
**EXCEPTIONS**

**Section 1100 -Purpose** The provisions of the District Regulations shall be subject to additional requirements, limitations and exceptions in accordance with the following supplementary regulations. Unless otherwise specified, these supplementary regulations shall apply to all districts.

**AS TO USE**

**Section 1101. Public Utilities and Services** - The provisions of this Local Law shall not be construed to limit or interfere with the construction or operation for public utility purposes of water and gas pipes, electric light and power transmission and distribution lines, communication lines, sewers and incidental appurtenances; or with any highway or railroad right-of-way existing or hereafter authorized by the Town of Sidney, County of Delaware, or State of New York. The above exception shall not be construed to permit yards, garages or other structures for service or storage use by said public utility except as otherwise permitted by this Local Law.

**Section 1102. Public Water and Sewer** - If a public water supply and/or a public sewer system are available, no new dwelling or other new principal building except a farm structure shall be constructed, erected, altered or used without connection with such public water supply and/or public sewer system.

**Section 1103. Lot Frontage on Street** - No dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway. Or has an undisputed legal right of way or easement granting access to parcel.

**Section 1105. Temporary Structures** - Temporary buildings may be placed in any district for uses incidental to construction work, provided that such building shall be removed forthwith upon the completion or abandonment of the construction work permitted. .

**Section 1106. Volatile Materials Storage** - All volatile materials shall be stored and used only in containers and in the manner approved by the New York State Board of Fire Underwriters.

**Section 1106A** Intermodal Shipping Containers, Box Trucks, Semi-Trailers, office trailers, mobile home manufactured homes and other similar items.

The use of box trucks, vans, semi-trailers, trailers, or any vehicle that is currently or at one time was registered as a motor vehicle, for storage, display of a sign, or other occupancy on a permanent basis of more than 180 days shall be prohibited.

The use of mobile homes, manufactured homes, recreational vehicles for storage shall be prohibited.

The use of intermodal shipping containers, connex boxes and steel containers for storage or other shall be prohibited

Exception:

1. Intermodal shipping containers, connex boxes, steel containers used for storage shall be permitted when affixed to a permanent foundation compliant with NYS Building Code. All containers shall have a finished exterior siding adhered to the outside compliant with

- NYS Building Code. The siding shall be of a material commonly used on conventional built storage structures.
2. Intermodal shipping containers, connex boxes, steel containers used for an occupancy class under the Uniform Code shall be permitted when affixed to a permanent foundation approved by the Code Officer. All containers shall have a finished exterior siding adhered to the outside approved that is by the Code Officer. The siding shall be of a material commonly used on conventional built structures.
  3. Intermodal shipping containers, connex boxes, steel containers used for the above purposes shall be modified to meet the requirements of the NYS Uniform Fire Prevention and Building Code for a like or similar structure or occupancy. A building permit shall be required. Interior areas within intermodal shipping containers, connex boxes, steel containers used for the above purposes shall have access to a minimum of one thirty-six inch wide man door that exits to the exterior.

**Section 1107- Wild or exotic animals.** No wild, exotic or vicious animal shall be kept permanently or temporarily in any district. No person shall have, sell, keep or maintain any wild, exotic, dangerous, or non-domesticated animal within the town of Sidney. "Wild, exotic, dangerous, or non-domesticated animal" shall include but is not limited to, all species inherently dangerous to humans or domestic animals. The following is a listing of animals considered inherently dangerous:

1. Primates: Gorillas, orangutans, chimpanzees, gibbons, siamangs, mandrills, drills, baboons, Gelada baboons; monkeys
2. Carnivores: Wolves All species; any wolf hybrid; Bears All species; Lions, tigers, leopards, jaguars, cheetahs, cougars, bobcats All wild species;
3. Proboscidea: Elephants All species;
4. Perissodactyla: Rhinoceroses All species;
5. Artiodactyla: Hippopotamus, African buffalo;
6. Reptiles: Order Crocodylia: Crocodiles and alligators All species;
7. Serpentes: Snakes All poisonous or venomous species; snakes capable of growing to over 6 feet in length,
8. Amphibians: All poisonous species;
9. In addition; Buffalo, Bison, Ostrich, Giraffe, elk, reindeer, or like animals not normally considered domesticated.

Exception: On a case by case basis, animals listed above may be possessed by special use permit where approved by the Planning Board. Applicants must demonstrate a proficiency and expertise in handling any listed animal. In addition, a demonstration of proper housing and fencing or control measures must be demonstrated. Applicants must demonstrate the availability of veterinary care and the need to possess such animals. Possession is subject to provisions in the Special Use Permit.

Specifically exempted from this section are members of the camelid family to include llama, alpaca, vicuna, and guanaco. Also exempted, wildlife rehabilitators licensed by the State of New York.

## AS TO ADULT USES

### Section 1108 Adult uses.

Adult uses shall be allowable in Commercial districts pursuant to the following:

Purposes and considerations.

1. (In the execution of this chapter it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
2. It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Sidney.
3. These special regulations are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

Definitions. As used in this Law, the following terms shall have the meanings indicated in Article III definitions

1. Adult Stores
1. Adult Books Stores
2. Adult Dive in Theater
3. Adult Theaters
4. Peeps Shows
5. Vape Shop
6. Vape Lounge
7. Burlesque House

The adult uses as defined above are to be restricted as to location in the following manner in addition to any other requirements of this Code.

1. Any of the above uses shall not be located within a 2,500 foot radius of any area zoned for residential use.
2. Any of the above uses shall not be located within a one-half-mile radius of another such use. Exception: vape shops or lounges shall only be measured from other vape shops or lounges.
3. Any of the above uses shall not be located within a 2,500 foot radius of any school, church or other place of religious worship, park, playground or playing field.

The restrictions enumerated above may be waived by the Town Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in this local law

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this local law will be observed;
2. That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and

No more than one of the adult uses as defined above shall be located on any lot.

## AS TO JUNKYARDS

### Section 1109- Junkyards (Resource recovery, Recycling Centers)

Purpose -The Town of Sidney desires to set out fair and comprehensive rules and regulations governing the creation, maintenance, and screening of junkyards. The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons, protect water resources; preserve the aesthetic qualities of the Town; prevent depreciation of the property in which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the Comprehensive Plan. To this end, new junkyards will not be allowed as an approved use within any zoning district (Junkyards will not be listed as an approved use under any Town expansion(referred to in this Law as being "non-conforming") unless they are found to constitute a health or safety nuisance, in which the owner(s) shall have six months to correct the nuisance or close the facility. This "non-conforming" clause does not apply to any existing illegally established junkyard. It is the intent of this Law to prohibit a "non-conforming" junkyard to expand outside of its existing property boundaries (at the time of passage of this Law). Modifications to the site will only be allowed through the SUP process, which may allow changes to the location and quantities of materials stored on the existing site.

The term "junkyard" shall include, any salvage yard, scrap yard, recycling centers or related use, including any use involving the storage or disassembly of wrecked or non- functioning automobiles, recreational vehicles, trucks, or other vehicles; storage, baling or otherwise dealing in scrap metal, commercial/residential appliances, used plumbing fixtures and used brick, wood, or other building materials. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded. Junked Motor Vehicle – any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

1. unlicensed or unregistered; or
2. abandoned, wrecked, stored, discarded, dismantled; or
3. not in condition for legal use upon the public highways. The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Antique Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

Classic Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

Exclusions- The following conditions are hereby excluded from the definition of a junkyard:

- (a) Unlicensed vehicles in operating condition stored by or for the owner while the owner is
  - (i) a full-time student of the immediate family attending a school, college, or university; and
  - (ii) a member of the United States Armed Forces.
- (b) Seasonal vehicles or machinery during their off-season if kept in a location not visible from any road, street or highway, when practicable; otherwise a seasonal use permit must be applied for and received.
- (c) Farms
- (d) An antique or classic motor vehicle (one) which is being restored.
- (e) Contractor's Storage Yard: An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring, heating, plumbing, roofing, landscaping and excavation. These yards shall not include inoperable or wrecked motor vehicles remaining on the premises for more than forty-eight (48) hours, Yards containing such vehicles shall be considered an outside salvage or reclamation use and subject to violation. Unless said vehicle has a valid state registration, current safety inspection certificate and documentary records of pending repairs or other disposition.
- (f) Approved and licensed automobile impound yards (meeting the requirements of all approvals and licenses).

**Regulations-** The Planning Board, in its reasonable discretion, and as a condition to the issuance of a Permit to Operate a Junkyard, may require the applicant to conform to certain conditions, which may include, but need not be limited to the following:

- (a) Be situated on one contiguous parcel that is undivided by any public road right-of-way.
- (b) Have a minimum setback to the fence from front property lines, excluding a road right-of-way, of at least 40 feet, and from the side and rear property lines, excluding a road right-of-way, of at least 10 feet.
- (c) Not be located closer than 500 feet to either a preexisting residence, church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, or public recreation facilities. If this cannot be achieved for an existing facility, the Town may require mitigations to minimize the impacts to these uses.
- (d) Not store "materials" higher than 15 feet in height in the first 100 feet from a property line. The height allowance can be raised an additional 10 feet for each additional 100 feet that the materials are from a property line. For example, a pile of materials can be 25 feet in height if located 200 feet from any property line.

- (e) Be screened as provided herein, so as to not be visible from any residence (except a residence used in conjunction with the junkyard) or from the main-traveled way of any public road, at any season of the year, and
- (f) At a minimum, the junkyard in general, shall be entirely surrounded by an opaque fence (including gates) at least eight feet in height, or by either a woven or welded wire (14 gauge minimum) or chain link fence a minimum of six feet in height (installed with opaque screening material) and with vegetation (excluding wild growth) that provides a continuous all-seasons opaque screen at least eight feet in height within five years of planting or setting such vegetation. If areas of the junkyard are shown to not need this type of fencing or screening, the Planning Board can waive this requirement. The fence shall remain in good repair. The fence and vegetation shall surround the minimum area necessary for the junkyard to not be visible from surrounding uses or the travelling public. Vegetation not less than four feet in height at the time of planting shall be planted on the outbound side of the fence, contiguous to, and not more than twelve feet from the fence. Vegetation that serves as screening shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow, without gaps or open spaces, will exist to a height of at least eight feet along the length of the fence surrounding the junkyard. The vegetation shall be maintained as a continuous, unbroken hedgerow for so long as the property is used as a junkyard. Existing vegetation may be approved if it adequately meets the purposes of this article.
- (g) If a fence is utilized: inside, adjacent to and continuous with the fence or enclosure, on a strip of land at least ten feet in width shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.
- (h) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transport to or from the site.
- (i) All junkyards shall be maintained to protect the public from health nuisances and safety hazards.
- (j) Drainage from the site shall be properly managed as to not adversely impact downstream properties.

All junkyards existing which wish to change, or modify in any way as to number of cars, appliances, amount of junk materials, or area used (on the existing site) as a junkyard, shall be subject to all requirements of this chapter, and approved in writing by the Town Planning Board. Established Junkyards For the purpose of this local law, junkyards which on the effective date of this local law were legally operated and maintained under all applicable state, federal and local laws and ordinances, may continue in existence, unchanged in character and size. However, within 90 days from the passage of this local law, the owner shall furnish the Planning Board a legible sketch of the property, which shall include dimensions for the property and the approximate location of all building and material on the property, together with any applicable permit fee. If the Planning Board after review, finds the application in conformance with the requirements/purposes of this law, the Planning Board shall issue a permit valid for one year, at which time the owner can apply for a renewal permit. The purpose of the yearly permit renewal, is to ensure that the facility is being operated in conformance with all required standards in of this law. It is also the purpose of this renewal process to bring existing facilities into conformance with the required standards. For non-conforming junkyards, at the time of adoption of this local law, it is the intent of the Town to bring these facilities into conformance with all these regulations over a five (5) year period. Each year, the applicant will be required to show progress towards this requirement. In the case of any pre-existing junkyard

which has been non-conforming but is found to be a health or safety nuisance, Town of Sidney reserves the right to enforce all health, safety, and environmental laws, within six (6) months of the effective date of this article or from the time the health, safety hazard, or public nuisance is determined.

**Permit Applications-** Junkyards as defined in this section will be allowed by a Permit to Operate a Junkyard. These Permits will be reviewed and granted by the Planning Board. The application shall include information on the following: material storage types, location and heights; activity areas (what is done and where); and all existing permit and approval information concerning the site.

**Severability-** If any clause, sentence, paragraph, section or article of this law shall be adjudged 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 article thereof directly involved in the controversy in which such judgment shall have been rendered. This local law shall become effective upon the date it is filed in the Office of the New York State Secretary of State

## AS TO MASS GATHERINGS

### **Section 1109A Mass Gatherings**

No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit has been issued for the gathering by the Town Planning Board.

**Section 1110. – Prohibited Uses –** Any use not specifically listed as permitted in this Local Law shall be considered prohibited.

## AS TO HEIGHT

**Section 1111. Exceptions -** The height limitations of this Local Law shall not apply to:

- 1) Church spires, belfries, cupolas and domes, monuments, chimneys, smokestacks, flag poles, radio towers, masts and aerals, water tanks, elevator penthouses, conveyors, and scenery lofts provided that the aggregate horizontal area of such part shall not exceed 20 percent of the ground floor area of the main building.
- 2) Public or non-profit institutional buildings in an "SC-R", "MD", "R", "RA" or "C" district, provided that each required front, side and rear yard is increased one foot for each one foot of building height which exceeds the maximum height permitted in the district.
- 3) A parapet wall extending above the height limit by not more than four feet.

**Section 1112. Accessory Buildings -** Accessory buildings shall not be higher than the district regulations.

## AS TO AREA AND YARDS

**Section 1113. Exceptions for Lots of Record** - The requirements of this Local Law with respect to the area and lot width shall not be construed to prevent the erection of a one-family dwelling on any lot of record at the effective date of this Local Law, regardless of the area or width of such lot, provided that such use is permitted in the district in which such lot is located and provided the yard and other requirements of this Local Law are complied with. Vacant lots in the same ownership having in the aggregate a continuous frontage of more than 100 feet shall not qualify for this exception.

**Section 1114. Vision Clearance at Intersections** - Clear vision shall be maintained in the triangular area of a corner lot formed by intersecting street lines and a line connecting them at points 30 feet distance from their intersection. In such area no tree, shrub, or other planting shall be placed or permitted to remain and no structure shall hereafter be permitted which obstructs sight lines at elevations between 2 and 6 feet above the street grade.

**Section 1115. New Street Line Determines Building Line** - If a new street line has been established in anticipation of future street widening, such new street line shall be used in determining front yard depth or side yard width, as the case may be.

**Section 1116. Location and Coverage of Accessory Buildings** - In "SC-R", "MD", "R" or "R-A" districts, and in "C" districts where yards are required, permitted accessory buildings shall not:

- a) Occupy more than 25 percent of any required rear yard.
- b) Be nearer than 8 feet to any dwelling or other structure, unless attached thereto and considered part thereof for the purposes of yard measurement.
- c) In a front yard, side yard or rear yard; not closer than 10 feet of any property or lot line and not closer than 65 feet to the center of any road or right of way.

**Section 1117. Corner Lot Modification** - In the case of a corner lot in "R" or "R-A" districts, all buildings shall comply with front yard requirements on both streets, except that, if the rear lot line of such corner lot is also the rear lot line of the adjoining lot on the side-street, the side street side yard shall not be less than 25 feet provided, however, that no projections other than roof projections shall be permitted in such side yard. When the rear of any corner lot abuts any lot facing on a street, which street is a side-street in relation to said corner lot, any accessory building on the corner lot shall be located at a distance from the rear lot line of the corner lot equal to ten percent of the depth of the corner lot, but in no case shall this distance be less than 10 feet nor need it be more than 25 feet.

**Section 1118. Front Yard Exceptions** - If, on one side of a street within a given block, there are existing buildings at the time of passage of this Local Law, then the depth of the required front yard will be the average depth of the front yards of the above buildings as measured from the front lot line of the main front wall of these same buildings, and as determined by the Code Enforcement Officer, provided, however, that no front yard shall be required to be more than 60 feet in depth.

**Section 1119. Projections Into Yards** - The following structures shall be allowed within required yards:

1. Wall or fence not over 3 1/2 feet high in any front yard or side-street yard (subject to Section 1114).
2. Wall or fence not over 7 feet high in any other yard (corner lots subject to Section 1117).
3. Retaining wall of any necessary height.

4. Balconies, bay windows, chimneys, and roof projections not exceeding 3 feet (corner lots subject to Section 1117).
5. Unenclosed porches projecting into any required side or rear yard not more than one-fourth the required width or depth of such yards (corner lots subject to Section 1113).
6. Unenclosed steps not extending above the floor level of the first story (corner lots subject to Section 1117).

## AS TO SIGNS

### Section 1120- Signs

#### 1. Sidney Center Hamlet District / Maywood District / Residential District

- (a) One unlighted sign, not exceeding 10 square feet in area, advertising the sale or rent of the property upon which the sign is located, provided that such sign shall be set back from the street line not less than 1/2 the required front-yard depth.
- (b) One bulletin board, not exceeding 20 square feet in area, for public, charitable, and religious institutions.
- (c) An identification sign, not exceeding three square feet in area, related to an accessory office or home occupation permitted on the premises.
- (d) Lighted signs may be permissible when a special use permit is issued for the parcel

#### 2. Agricultural Residential District

- (a) Same as permitted and regulated in the "R" district, except that larger identification signs shall be permitted.
- (b) An unlighted sign, not exceeding six square feet in area, identifying a permitted use, or related to the sale of agricultural products grown on the premises.
- (c) Lighted signs may be permissible when a special use permit is issued for the parcel

#### 3. Light Commercial / Commercial District

- (a) All advertising signs in the Town of Sidney shall be confined to the premises of the business advertised
- (b) A wall identification sign may be attached to or incorporated in the building wall. Such signs shall have:
  - A maximum area of two square feet for each horizontal foot of building wall on which it is located
  - A maximum width of 75 percent of the building wall's horizontal measurement except that, where such horizontal measurement is 20 feet or less, the maximum width may be 90 percent of such measurement
  - A maximum projection of 12 inches from the face of the building wall to which the sign is attached

-No projection above the top of the wall, and none of its length extending beyond the end or corner of the wall

(c) A detached or ground identification sign may be erected where the building is set back from the property line a distance of 50 feet or more. Such sign shall have:

- A maximum area of 32 square feet
- A maximum height measured from the ground level of 12 feet
- At least three feet of clear space between the sign board and the ground, except that signs which have a preponderance of native materials (rock and wood) in their composition may start at ground level.
- A setback of at least 20 feet from any lot line or street property line

(d) Identification signs

- May be interior lighted or may be illuminated by shielded floodlights.
- Red or green lights shall be set back at least 75 feet from the point of intersection of the street and property lines at a street corner
- Intermittent or flashing lights shall not be used on or in any sign
- Moving or animated signs shall not be permitted
- 

(e) Service Stations - In addition to the sign requirements each motor vehicle service station shall be permitted:

i. One free standing or pylon sign setting forth:

- a. Name of station
- b. Principle product sold
- c. Special company or brand names
- d. Company insignia or emblem

ii. Such sign shall not exceed 20 feet in area on either of two sides

iii. Sign shall be set no closer than 20 feet off property line

iv. Sign shall be no less than 10 feet, nor more than 18 feet above the ground

Signs required by statute are exempt from this regulation

### AS TO OUTDOOR BOILERS

#### Section 1121. OUTDOOR BOILERS

As used in this section, the following terms shall have the meanings in Article III Definitions

- A. EPA APPROVED
- B. FIREWOOD
- C. OUTDOOR WOOD BOILER
- D. UNTREATED LUMBER

**Permit required.**

No person shall cause, allow or maintain the use of an outdoor wood boiler within the Town of Sidney without first having obtained a permit from the Town Code Enforcement Officer and Zoning Enforcement Officer

**Specific requirements.**

Installation and operation to be compliant with NYS6RR-NYA 247 Outdoor Wood Boilers.

**Suspension of permit.**

A permit issued pursuant to this article may be suspended as the Building Inspector may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Sidney if any of the following conditions occur

- A. The emissions from the outdoor wood boiler cause damage to vegetation or property; or
- B. The emissions from the outdoor wood boiler are or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurance is given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this section subject to the outlined in ARTICLE XIV

**Penalties for offenses.**

**Violations.**

A violation of this article is hereby declared to be an offense, punishable by a fine not exceeding \$250 per day. Each day constitutes a new violation or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$250 nor more than \$500 or imprisonment for a period not to exceed 30 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$500 nor more than \$1,000 or imprisonment for a period not to exceed three months, or both. Each day continued violation shall constitute a separate additional violation.

**Effect on other regulations.**

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of

Environmental Conservation or any other federal, state, regional or local agency. Outdoor boilers, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood boiler shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of conflict between any provision of this article and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail. Outdoor wood boilers must conform to all other applicable regulations of the Town's Zoning Law,

**Section 1122. Excavations**

As described in this section, excavations means all ground excavations to include installation of wells, septic systems, ponds, lakes and other excavations greater than one foot in depth.

**Exceptions:** Surface ground tillage to accommodate agricultural gardening or in-ground wire boundary fencing for pets.

Excavations as described above shall be subject to a ten foot set back from all property lines, lot lines, and public rights of way.

**Section 1123. Water Courses**

Water courses to include streams, brooks, wastewater, storm water, spring water, dry stream beds, or any other water course shall not be altered in such a way that it flows to a neighboring property where it did not previously and naturally flow.

**Section 1124 As to recreational vehicles, trailers, slide-ins and units used as dwellings.**

Recreational vehicles, trailers slide-ins and units may be used as dwelling units with the following provisions:

The above, when occupied on a parcel or by the same occupant(s) for a period of 180 days or more shall be serviced by a septic system designed by a design professional, in compliance with New York State Department of Health regulations and guidelines and provisions set forth in the New York State Uniform Fire Prevention and Building Code. The above shall also be serviced by a continuous self-replenishing potable water source such as a well. All such unit is used as dwellings shall be maintained in the same manner as a residential dwelling as required by the New York State Fire Code and Property Maintenance Code.

A lapse of occupancy of 30 days or more constitutes a new period of the 180 day period.

# **ARTICLE XII**

## **REQUIRED OFF-STREET PARKING**