

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

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

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

~~County~~

~~City~~

Town

~~Village~~

of New Scotland

Local Law No. 3 of the year 19 95

A local law Town of New Scotland Zoning Law
(Insert Title)

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

~~County~~

~~City~~

Town

~~Village~~

of New Scotland

as follows:

See Attached

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 19 95 of the ~~(County)~~(City)(Town)(Village) of New Scotland was duly passed by the Town Board on July 10 1995, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: July, 1995

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

STATE OF NEW YORK
COUNTY OF Albany

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

Signature

Title

COUNTY
~~City~~ of New Scotland
Town
~~Village~~

Date: July 12, 1995

Town of New Scotland

Albany County

New York

ZONING

LAW

R **E** **C** **E** **I** **V** **E** **D**
MAY 16 1995
TOWN CLERK

Local Law # 3

Adopted July 10, ,1995

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**ZONING LAW OF THE TOWN OF
NEW SCOTLAND**

A law regulating and restricting the height, number of stories, and size of buildings and other structures, their construction, alteration, extension, repair, maintenance and all facilities in or about such buildings and structures, the percentage of lot that may be occupied, the size, depth, and width of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, manufacturing, residence or other purposes; providing for the appointment of a Zoning Board of Appeals and setting forth the duties and functions of said Board; and providing for the administration and enforcement of this Law and Laws of the State of New York.

Article I. Title and Purpose

§1.000. Short Title

This Law shall be known and cited as the "Town of New Scotland Zoning Law".

§1.100. Purpose

This Law is adopted pursuant to the laws of the State of New York in order to protect and promote the health, safety and welfare of the community. The regulations, administrative procedures, enforcement mechanisms and penalties have been prescribed to implement the general policies of the Comprehensive Land Use Plan of the Town of New Scotland, as may be edited and amended by the Town of New Scotland. In the event of inconsistencies between the New Scotland Zoning Law and the Comprehensive Land

Use Plan, the provisions of the New Scotland Zoning Law shall be controlling.

§1.200. Interpretation

In the interpretation and the application of the provisions of this Law, all officials and boards shall be held to the minimum requirements for the promotion of the public health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or laws, including those of the State of New York and the County of Albany, provided that where this Law imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Law shall control.

§1.300. Validity

If any section, subsection, sentence, clause or phrase of this Law is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Law.

§1.400. Controlling Regulation

Where provisions of this chapter impose greater restrictions than those of any statute, other law, or regulation, the provisions of this chapter shall be controlling. When the provisions of any statute, other law or regulation impose greater restrictions than this law, the provisions of such statute, other law or regulation shall be controlling.

Article II. Establishment and Designation of Districts

§2.000. Zoning Map and Districts

The zoning map officially entitled "Town of New Scotland Zoning Map" dated 1995 is hereby adopted as part of this law. The Town of New Scotland Zoning Map shows a division of the Town into the following districts:

- "R-F"- Residential Forestry
- "R-A"- Residential Agricultural
- "M.D.R."- Medium Density Residential
- "R-2"- Residential Conservation
- "R-H"- Residential - Hamlet
- "C-H"- Commercial - Hamlet
- "Com"- Commercial
- "Ind"- Industrial

§2.100. Copies of Zoning Map

Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map which shall be on file with the Town Clerk shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures.

§2.200. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

2.201. Unless otherwise shown, the district boundaries shall be construed to coincide with the center lines of streets, roads, highways, and/or waterways, or such lines extended.

2.202. Where such boundaries are indicated as approximately following the property or jurisdictional lines of publicly owned lands or municipalities, such lines shall be construed to be such boundaries.

2.203. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main track or tracks of said railroad line except where the map clearly shows it to be one side or the other.

2.204. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, roads, highways, or railroad track of tracks, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map.

2.205. In all other cases, where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

2.206. In all cases where district boundary divides a lot in single or joint ownership and where 50 percent or more of the area of such lot lies in the less restricted district, the regulations described by this Law for the less restricted district shall apply to the first thirty (30) feet of the more restrictive lot area adjacent to the common boundary as measured perpendicular to the said common boundary. For purposes of this Section, the more restricted

district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.

§2.300. Lots

2.301. Minimum Lot Size. Except as explicitly defined in this Law, no division of land may be made whereby any lot created is smaller than the minimum size permitted in the district in which said lot is located, or has less width, setback or yard space than the minimum required.

2.302. Corner Lots and Lots with Double Frontage. Lots which border on and adjoin more than one street shall provide minimum road frontage on one street and minimum front setback on every street, adjoined, as required by this Law.

2.303. Building Location. All structures, except unattached accessory structures as regulated in Section 3.304 of this Law, whether open or enclosed including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front or side yard or rear setback.

2.304. Pre-Existing Lots. Any lot in existence prior to the effective date of this Law, single and separate in ownership from that of any adjacent land, which does not meet the description of 3.406, may be granted an area variance by the Board of Appeals for the construction of an

otherwise permitted structure. Such variance shall include conditions of approval established by the Board of Appeals such as reductions in front, side and rear setbacks and lot frontage.

§2.400. District Objectives and Land Use Controls

The following tables state the objectives of each district and the regulations for each district.

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

2.401. "R-F" Residential-Forestry

Statement of Purpose:

The forestry area contains soils and slopes that are generally not desirable for agricultural use. It contains less desirable soils for urban development than the Residential Agricultural area. The permitted uses therefore, are designated as forest land where forest management practices are carried out, agricultural production where practical, single-family homes at a density not to exceed one residence per three acres, outdoor recreational activities, and other low density uses desirable for rural areas. The purpose of this district is to encourage constructive development of land to retain areas for non-intensive uses, to prevent intensive development of land where it would be a burden to the town and to retain the present character of the town. The residential-forestry zone includes lands that are critical environmental areas.

* Acres	Minimum Area in	Lot Size Width in feet	Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet Each Side		
				Front	Yard	Rear
** 3		200	125,000	50	50	50
1		140	40,000	50	25	30

Add 30 feet front yard setback on state roads to be measured from the right-of-way lines where a plan of the right-of-way is on file with the County Clerk, or in the absence of such a plan, from a line 25 feet from and parallel with the center line of the travelled way.

Permitted Uses

1. Forest Management
2. Agriculture-farms and nurseries (more than 5 acres) including display and sale of products raised, except hogs and pigs
3. Single-family dwelling.
4. Private non-profit and public outdoor recreational facilities
5. Accessory Uses
6. Essential Services
7. Home Occupation
8. Day Care
9. Less than 5-acre parcel horses (private-max. 3)

Special Uses

1. Two-Family dwelling
2. Removal of fill, gravel or loam
3. Temporary sawmill
4. Water impoundment for recreation and storage
5. Summer camps and retreats
6. Churches and cemeteries
7. Private non-profit and public recreational buildings
8. Essential service buildings
9. Boarding and riding stable and/or kennels
10. Hogs and pigs
11. Radio or transmission
12. Restaurants and Taverns

* In calculating the minimum acreage required of building lots, lands within the boundary of Federal or State designated wetlands, and lands with a slope greater than seventeen percent (17%) shall not be included.

**** Homestead Allowance:**

One, one (1) acre lot for each ten (10) acres in a parcel with the remainder of the parcel to be divided into three (3) acre, or larger, lots.

2.402. "R-A" Residential-Agricultural

Statement of Purpose:

The Residential-Agricultural district generally has soils suitable for development. For reasons of access, slopes, agricultural land preservation, present and future contemplated community facilities and utilities, such lands should not be built upon at a high density. The Residential-Agricultural district is designated to accommodate houses at a low density for people who wish to live in a rural atmosphere without interfering with prime agricultural areas. The continuation of forestry and agricultural activities and low intensity uses are encouraged.

*Class	Minimum Lot Size		Minimum Lot Area Per Family in Square Feet	Minimum Yards Setbacks in Feet Each Side		
	Area in Sq. Ft.	Width in Feet		Front	Yard	Rear
1	**33,000	100	30,000	40	25	30
2	**44,000	140	40,000	40	25	30

Add 30 feet front yard setback on state roads to be measured from the right-of-way lines where a plan of the right-of-way is on file with the county clerk, or in the absence of such a plan, from a line 25 feet from and parallel with the center line of the travelled way.

Permitted Uses

1. Forest Management
2. Agriculture-farms and nurseries, (5 or more acres) including display and sale of products raised except hogs and pigs
3. Single-family dwelling
4. Private non-profits & public outdoor recreational facilities
5. Accessory Uses
6. Essential Services
7. Less than 5 acre - horses (private max. 3)
8. Home Occupation
9. Day Care

Special Uses

1. Cemeteries
2. Water impoundment for recreation and storage
3. Churches
4. Essential service buildings
5. Boarding & Riding Stables
6. Hogs & pigs
7. Two-family dwellings
8. Multi-family dwellings
9. Private Airports
10. Mobile Home Park
11. Animal hospital and/or kennels
12. Private non-profit & public recreational buildings
13. Hospitals & Clinics
14. Nursing & Convalescent homes
15. Hotels-Motels
16. Restaurants & Taverns

* Type of Utility:

- Class 1 - Public water and sewer
- Class 2 - On site water and/or sewerage disposal

** In calculating the minimum acreage required of building lots, lands within the boundary of Federal or State designated wetlands, and lands with a slope greater than seventeen per percent (17%) shall not be included.

2.403. "M.D.R." Medium Density Residential

Statement of Purpose:

The medium density residential areas generally have suitable soils and slopes for urban development, are accessible to other population centers, are feasible of being served with public water and sewer and are generally outside the prime agricultural area. The purpose of this district is to accommodate growth where it can be provided with adequate facilities and utilities at densities attractive to development, to free prime agricultural areas from scattered development.

*Class	Minimum Lot Size		Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet Each Side		
	Area in Square Feet	Width in Feet		Front	Yard	Rear
1	**22,000	120	15,000	40	25	30
2	**30,000	130	15,000	40	25	30
3	**44,000	150	15,000	40	25	30

Add 30 feet front yard set back on state roads to be measured from the right-of-way lines where a plan of the right-of-way is on file with the county clerk, or in the absence of such a plan, from a line 25 feet from and parallel with the center line of the travelled way.

Permitted Uses

1. Agriculture-farms and nurseries, (more than 5 acres) including display and sale of products raised except hogs and pigs
2. Single-family dwellings
3. Private Non-profit and public outdoor recreational facilities
4. Accessory uses
5. Essential services
6. Home occupations
7. Day Care

Special Uses

1. Two-family dwellings
2. Multi-family dwellings
3. Essential service buildings
4. Hospitals and clinics
5. Nursing and convalescent homes
6. Hotels-motels
7. Restaurants and Taverns
8. Planned unit developments
9. Less than 5 acres-horses (private) (max. 3)
10. Water impoundment for recreation and storage
11. Private non-profit and public recreational buildings
12. Churches
13. Boarding and riding stables and or kennels
14. Cemeteries
15. Animal hospital

*** Type of Utility:**

- Class 1 - Public water and sewer.
- Class 2 - On-lot water or sewage disposal.
- Class 3 - On-lot water and/or sewage disposal.

**** In calculating the minimum area of building lots, lands of the following characteristics shall not be included:**

- a) Lands with a slope greater than seventeen percent (17%)
- b) Lands within Conservation easement areas.
- c) Lands within Stormwater Management areas.
- d) Lands within Parklands.
- e) Lands within Federal or State designated wetlands.

2.404. "R-2" Residential Conservation

Statement of Purpose:

The residential conservation areas generally have soils and slopes unsuitable for urban development, are accessible to other population centers and are generally outside the prime agricultural area. The purpose of this district is to discourage growth on unsuitable lands and encourage development of natural areas suitable for passive recreation.

Minimum Lot Area in Acres	Lot Sizes Width in Feet	Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet Each Side		
			Front	Side	Rear
2	175	86,000	50	25	50
*1	145	43,000	50	25	30

Add (30) feet front yard setback on state roads to be measured from the right-of-way lines where a plan of the right-of-way is on file with the County Clerk, or in the absence of such a plan, from a line 25 feet from and parallel with the center line of the travelled way.

Permitted Uses

1. Forest Management
2. Agricultural-farms and nurseries, (5 or more acres) including display and sale of products raised, except hogs and pigs
3. Single-family dwelling
4. Private non-profit and public outdoor recreational facilities
5. Accessory Uses
6. Essential Services
7. Less than 5 acres - horses (private maximum 3)
8. Home Occupation
9. Day Care

Special Uses

1. Cemeteries
2. Water impoundment for recreation and storage
3. Churches
4. Essential service buildings
5. Boarding and Riding stables and or kennels
6. Two-family dwellings
7. Private non-profit and public recreational buildings
8. Animal hospital

* Homestead Allowance: One, one (1) acre single family building lot for each eleven (11) acres in the parcel of land. The remainder of the parcel to be divided into two acre, or larger, lots.

2.405. "R-H" Residential - Hamlet

Statement of Purpose:

Residential Hamlet is for residential type uses where higher densities of development are compatible with the existing character of the neighborhood.

*Class	Minimum Lot Size		Minimum Lot Area Per Family in Square Feet	Minimum Yards Setbacks in Feet Each Side		
	Area in Square Feet	Width in Feet		Front	Yard	Rear
1.	10,000	100	7,500	30	15	30
2.	20,000	100	10,000	30	15	30

Permitted Uses

1. Agricultural-farms and nurseries (more than 5 acres) including display, sale of products raised, except hogs & pigs
2. Single-family dwelling
3. Accessory Uses
4. Essential services
5. Private Non-profit and public outdoor recreational facilities
6. Home Occupation
7. Day Care

Special Uses

1. Two-family dwellings
2. Multi-family dwelling
3. Essential service
4. Hospitals and clinics
5. Nursing and convalescent homes
6. Private Non-profit recreational buildings
7. Water impoundment for recreation and storage
8. Churches
9. Cemeteries
10. Public or private schools
11. Semi-public uses
12. Professional building
13. Rooming house
14. Agricultural uses - less than five acres
15. Less than 5 acres - horses (private max. 3)
16. Non-profit lodges and social halls

*** Type of Utility:**

- Class 1 - Public water and sewer
- Class 2 - On-lot water and/or sewage disposal

2.406 "C-R" Commercial - Hamlet
Statement of Purpose:

This is a district in the center of the Hamlet and is designed to continue the rural town character. It provides services and shopping opportunities to the residents of the Hamlet and to visitors. It is a district that is designed to promote the pleasant residential characteristics and shopping environment of a small village.

COMMERCIAL

Minimum Lot Size in Square Feet	Yard Dimensions Minimum Lot		Maximum Building Area for Each Store in Square Feet in Feet	Minimum Yard Setbacks in Feet Each Side		
	Width	Depth		Front	Yard	Rear
10,000	100	100	2,000	30	15	30

RESIDENTIAL

*Class	Area in Square Feet	Minimum Lot Size Width in Feet	Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet		
				Front	Each Side Yard	Rear
1.	10,000	100	7,500	30	15	30
2.	20,000	100	10,000	30	15	30

Permitted Uses

1. Retail businesses
2. Business office
3. Banks
4. Accessory use
5. Essential services
6. Mortuary funeral home
7. Restaurants & taverns
8. Home Occupation
9. Professional Service Outlets
10. Clinics
11. Day Care
12. Personal Service Outlets

Special Uses

1. Automobile service or filling station
2. Dry cleaning
3. Religious institution
4. Community center
5. Private non-profit and public recreation
6. Private club
7. Parking area
8. Single-family dwelling
9. Multi-family dwelling
10. Auto sales and service
11. Two-family dwelling
12. Day Care Center

*** Type of Utility:**

- Class 1 - Public water and sewer
- Class 2 - On-lot water and/or sewage disposal

2.407. "COM" Commercial

Statement of Purpose:

These areas permit business development in the Town. These areas have to be relatively large to provide for a selection of stores and adequate parking.

COMMERCIAL

Minimum Lot Size Area in Sq. Ft.	Width in Feet	Minimum Yard Setbacks in Feet Each Side		
		Front	Yard	Rear
44,000	140	50	15	15

RESIDENTIAL

Minimum Lot Area in Square Feet	Lot Size Width in Feet	Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet Each Side		
			Front	Yard	Rear
44,000	140	40,000	30	15	30

Permitted Uses

1. Agriculture-farms and nurseries (more than 5 acres) including display, sale of products raised except hogs & pigs
2. Accessory Uses
3. Essential Services
4. Banks
5. Restaurants & Taverns
6. Motels, hotels, and/or Inns
7. Theaters
8. Clinics
9. Commercial Recreation
10. Office, private or public
11. Parking Areas
12. Retail business
13. Professional services
14. Day Care Center
15. Municipal Bldgs. & Facilities
16. Home Occupation
17. Bldg. Supply Facility
18. Educational Uses

Special Uses

1. Single-family dwelling
2. Two-family dwelling
3. Multi-family
4. Essential service buildings
5. Cemeteries
6. Churches
7. Automobile service or filling station
8. Auto sales & service
9. Shopping facilities consisting of more than one store
10. Car washes
11. Illuminated signs

2.408. "Ind" Industrial

Statement of Purpose:

This area provides for the establishment of industrial facilities, warehousing and related activities. A variety of types of manufacturing and offices are permitted, provided they are in keeping with the goals of the community.

INDUSTRIAL

Minimum Area in Square Feet	Lot Size Width in Feet	Minimum Yard Setbacks in Feet Each Side		
		Front	Yard	Rear
50,000	200	40	25	50

RESIDENTIAL

Minimum Area in Square Feet	Lot Size Width in Feet	Minimum Lot Area Per Family in Square Feet	Minimum Yard Setbacks in Feet Each Side		
			Front	Yard	Rear
44,000	140	40,000	30	15	30

Permitted Uses

1. Agricultural-farms and nurseries, (more than 5 acres) including display, sale products raised, except hog & pig
2. Essential services
3. Accessory uses
4. Public facilities
5. Offices
6. Wholesale businesses
7. Home Occupations
8. Public Buildings
9. Warehousing & Distribution
10. Self-service Storage Facilities
11. Any manufacture, compounding, processing, packing, treatment, warehousing or storage of goods and products, provided the use meets the standards of the state of New York

Special Uses

1. Commercial and retail uses servicing the industrial area
2. Research and testing laboratories
3. Industrial parks
4. Animal hospital
5. Single-family dwelling
6. Public garages
7. Trucking terminal
8. Essential service buildings
9. Illuminated signs
10. Auto wrecking facilities
11. Municipal facilities
12. Building or construction business
13. Building supply facility
14. Composting of sludge, yard waste and other solid waste
15. Agribusiness, including composting of cow, sheep and/or horse manure and associated bedding materials
16. Industrial lot

§2.500 Additional Requirements & Standards:

The following Additional Requirements & Standards shall apply to all Commercial & Industrial Uses, except in the Commercial Hamlet Zones.

Additional Requirements:

Maximum building coverage ratio	0.50
Maximum impervious surface ratio	0.75
Maximum Building Height	35 feet
Minimum usable open space	0.25
Minimum distance between principal buildings on the same site	15 feet

Additional Standards:

1. Any principal building may contain more than one principal use and/or organization provided that the total building coverage of the combined activities does not exceed the maximum building coverage ratio for the district.

2. No merchandise, products, equipment, advertising or similar material or other objects are to be displayed or stored outside the structure except permitted signs and commercial vending machines.

3. All building walls facing any street or residential district line are to be suitably finished for aesthetic purposes as determined by the Planning Board. All buildings in small shopping or office plaza clusters are to be compatibly designed whether constructed all at one time or in stages over a period of time.

4. All areas not utilized for buildings, parking, loading, access and driveways, or pedestrian walkways are to be maintained in good condition and suitable landscaped with trees, shrubs, ground covers, lawns, or similar plantings.

5. Parking is not allowed in the area between the principal building front face and the pavement edge of any street or road unless an eighty (80) foot setback is

provided for any structure, and a thirty-five (35) foot landscaped strip is maintained between any parking area and any property line abutting any street or road. This applies for corner lots with two street faces. Parking is encouraged to locate within side yards where practical.

6. Front setbacks and side yards are to be landscaped in accordance with any landscape requirements of this Law. At least the first twenty (20) feet adjacent to any street line and ten feet adjacent to any side or rear lot line is to be landscaped with trees, shrubs and groundcovers.

7. A minimum buffer area of fifty (50) feet in width is to be maintained along any common property line with a residential district or dwelling in use in accordance with any buffer standards outlined in this Law.

8. Parking lots and service areas are to be paved in accordance with the pavement requirements of this Law.

9. Existing lots of record having one hundred eighty (180) feet or less of frontage on a street will be limited to one point of vehicular access to the street to service all development on the lot including the division of the lot into additional lots.

10. Existing lots of record

having more than one hundred eighty (180) feet but less than five hundred (500) feet of frontage on a street will be limited to two (2) points of vehicular access to the street to service all development on the lot including the division of the lot into additional lots.

11. Existing lots of record having five hundred (500) feet or more of frontage on a street will be limited to two (2) points of vehicular access to the street for up to one thousand (1,000) feet of frontage, plus one additional point of access to the street for each additional five hundred (500) feet of frontage on the street or portion thereof. These points of access shall service all development on the lot, including the division of the lot into additional lots.

12. Prior to the division of all or any portion of any existing lot of record having a gross lot area of five (5) acres or more or five hundred (500) or more of street frontage, the owner is required to file a Master Development Plan (Plan) with the Planning Board. The Planning Board will review the plan and determine its acceptability.

a. A Plan is to be prepared in accordance with Article V of this Law.

b. A Plan should be

conceptual in nature. It must identify major development opportunities and constraints associated with the site. This information is to be prepared by a registered architect, landscape architect, or registered professional engineer.

c. In addition to the requirements contained in Article V of this Law, a Plan shall show, in conceptual manner, natural drainage features, environmentally sensitive areas, prime development areas, and other significant man-made and natural features.

Article III. General Provisions.

The following provisions shall apply to all districts except where listed:

§3.000. Open Space Requirement

Open space shall be required for any subdivision in compliance with the subdivision regulations of the Town of New Scotland. At least ten (10) percent of the area of any commercial or industrial development in either the "COM" or "IND" zones may be required to be retained in usable open space for common usage with appropriate landscaping. Open space shall not include parking areas or roadways.

3.001. Cluster Development .

Cluster development serves the purpose of enabling and encouraging the flexible design and development of land in a manner that promotes the appropriate use of land, controlled development, and preservation of the rural character of the Town. Such types of development facilitates the adequate and economic provision of streets and

utilities and preserve the natural and scenic qualities of open lands consistent with the goals and objectives of the Comprehensive Land Use Plan.

§3.100. Parking

Parking. Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged.

Use of parking areas. Parking areas are to be used for vehicle parking only with no sales, dead storage, repair work, dismantling or service of any kind. The required parking areas are to be permanently available for the use by patrons and employees of establishments providing such spaces.

Public, off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements when provided for this purpose.

Handicap parking spaces are to be supplied in accordance with Part 1102 Article 13 of the General Building Construction section of the State of New York Building Code.

PARKING REQUIREMENTS

Use	Minimum Parking Spaces Required
Residential (1 and 2 family)	2 per dwelling unit
Church and school	1 per 3 seats in principal assembly room
Private club or lodge	1 per 4 members
Theater	1 per 3 seats
Hospital, nursing and convalescent homes	1 per 3 beds and 1 for each employee based on the expected average employee occupancy
Professional offices and business services, and medical clinics	1 for every 250 sq. ft. of gross leasable area
Retail business and personal service establishments	1 for each 180 sq. ft. of gross leasable area
Restaurants and taverns	1 for every 3 seats and 1 for each 2 employees
Industrial	1 for each 400 sq. ft.
Funeral Homes	1 for each 75 sq. ft. of floor space in slumber rooms, parlors and individual service rooms
Multi-family dwelling	1 1/2 per unit plus 1 per additional 10 units

3.101. Design of Off-Street Parking Facilities. The following parking area design standards shall apply:

a. Each parking space is to contain a rectangular area which complies with the table entitled "Parking Lot Sizes and Dimensions".

b. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

c. Driveways providing access to parking aisles must be at least ten (10) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic, except that eighteen (18) foot wide driveways are permissible for two-way traffic when the driveway is not longer than fifty (50) feet, it provides access to not more than six (6) spaces, and

sufficient turning space is provided so that vehicles need not back onto a public street.

d. Each off-street parking area is to have a landscaped area equivalent to one (1) parking space for every thirty (30) parking spaces which is to be located to allow for no more than fifteen (15) cars in a row without a break. Said spaces are to be landscaped with shrubs no higher than three feet over at least half their surface and canopy trees of a minimum of 1 1/2" caliper with branches no lower than seven (7) feet. A minimum on one (1) canopy tree per equivalent landscape space is required. Such landscape spaces are to be distributed throughout the parking area in order to break the view of long rows of cars in a manner not impairing visibility. Parking lot landscaping of this nature is not to be construed as meeting any other landscaping, screening and/or buffering

requirements of this Law.

e. A screen planting of appropriate plan material not less than three feet in height is to be provided between off-street parking areas and any lot line except where a building intervenes or where the distance between such areas and the lot line is greater than one hundred fifty (150) feet.

PARKING LOT SIZES AND DIMENSIONS

	Stall Width	Stall to Curb (19' stall)	Aisle Width	Curb Length Per Car
90°	9.0'	19.0'	24.0'	9.0'
60°	9.0'	21.0'	18.0'	10.4'
45°	9.0'	19.8'	13.0'***	13.4'
30°	9.0'	17.3'	11.0'***	18.0'
0°	9.0'	9.0'	12.0'	23.0'

* Two-way circulation
 ** One-way circulation

§3.200. Off Street Loading

Off-street loading shall be spaced logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, and shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space.

§3.201 Off-Street Loading.

The following off-street loading design standards shall apply:

A. Whenever the normal operations of any development requires that goods, merchandise, or equipment be delivered to or shipped from that development, a sufficient off-street loading and unloading area is to be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

B. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following indicates the number and size of spaces

that, presumptively, satisfy the standard set forth in this subsection. The Planning Board may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building (S.F.)	# of Spaces*
5,000- 79,999	1
80,000-127,999	2
128,000-191,999	3
192,000-255,999	4
256,000-319,999	5
320,000-391,999	6

Plus one space for each additional seventy-two thousand (72,000) square feet or fraction thereof.

*A minimum distance of twelve (12) feet x fifty-five (55) feet and overhead clearance of fourteen (14) feet from street grade is required.

C. Loading and unloading areas are to be located and designed such that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

D. No area allocated to loading and unloading facilities may be used to

satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

E. Whenever: a) there exists a lot with one or more structures on it constructed before the effective date of this code, and b) a change in use not involving any enlargement of a structure is proposed for such lot, and c) the loading area requirements of this section cannot be satisfied because there is insufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

F. All loading areas are to be landscaped and/or screened sufficiently to obscure the view of the parked vehicles and loading platforms from any public street, adjacent residential land uses or districts and the front setbacks of any commercial uses.

§ 3.202 Pavement Requirements. The following pavement design standards shall apply:

A. Off-street parking areas

and loading areas including access aisles, driveways and fire lanes are to be paved as outlined below. Alternate pavement methods of an equivalent quality may be permitted subject to approval by the Town Engineer:

1. Areas of ingress and egress, loading and unloading areas, major interior driveways or access aisles and other areas likely to experience similar heavy traffic are to be paved not less than six (6) inches of suitable subbase material in compliance with NYSDOT Standard Specification Type 4 equivalent gravel.

Areas with poor soil conditions may require additional subbase material per Town Engineers recommendation. Under extremely soft soil conditions, a soil stabilization fabric may also be deemed necessary and required after review by the Town Engineer.

All areas of heavy duty pavement will be surfaced with a bituminous material unless and equivalent is approved by the Town Engineer. Bituminous surfacing is to consist of one (1) inch of compacted Type 7 or 7F NYSDOT equivalent top course and a three (3) inch compacted Type 1 NYSDOT equivalent base course for a total bituminous material thickness of at least four (4) inches. Should suitable subsurface soil conditions exist, additional bituminous base course may be required as per Town Engineers recommendation.

2. Parking stall areas likely to experience similar light traffic are

to be paved not less than six (6) inches of NYSDOT Type 4 equivalent gravel.

Bituminous surfacing is to be used unless an equivalent is approved by the Town Engineer. Bituminous surfacing is to consist of one (1) inch of compacted Type 7 or 7F NYSDOT equivalent top course and a two (2) inch compacted Type 3 or Type 1 NYSDOT equivalent binder or base course for a total compacted bituminous material thickness of at least three (3) inches. Should unsuitable subsurface soil conditions exist, additional bituminous binder or base course may be required as per Town Engineers recommendation.

3. All parking areas, regardless of size and location, shall be suitably drained and maintained with slopes on paved surfaces established between two (2) percent and eight (8) percent in parking stall areas and with driveway grades no greater than twelve (12) percent grade.

4. All off-street parking lots are to be adequately demarcated with painted lines or other markings to indicate traffic flow and parking spaces.

5. Granite, concrete and/or precast concrete curbing is to be installed, as required, to adequately control storm water runoff and to delineate and protect other site features including but not limited to sidewalks, ingress and egress locations, landscaped islands and planting beds, parking and loading areas, and at intersections with town, county or state roads. The appropriateness of curbing

shall be reviewed and approved by the Town Planning Board and/or its consultant.

All concrete curbing will have a twenty-eight (28) day compressive strength of four thousand (4,000) psi. Expansion joints are to be provided at intervals not to exceed twenty (20) feet and are to be sealed. Curb vertical face exposure is to be at least six (6) inches above the pavement surface.

Granite curbing is to be constructed to show a vertical face above the pavement surface of at least six (6) inches.

§3.300 Yard and Height Regulations

3.301. Coverage. in all districts, structures may not cover more than 30 percent of the lot except in Com or C-E Districts, where commercial uses shall not cover more than fifty (50) percent of the lot. In planned development projects and projects where clustering is applied, although individual lots may exceed this requirement, the overall project may not.

3.302. Height Regulations. In the case of single-family dwelling, no building shall exceed two (2) stories, with a maximum height of thirty-five (35) feet.

In the case of a building other than a single-family dwelling, including commercial and industrial buildings, no building or part thereof shall exceed three (3) stories with a maximum height of forty-five (45) feet, except church spires or belfries, windmills, solar panels,

bilos and smoke stacks. No such structure shall hinder solar access of any adjacent parcel of land.

3.303. Front Yard Setback. Notwithstanding provisions for front yards elsewhere in these regulations, on streets with less than fifty (50) foot right-of-way or where the right-of-way line is not known, the front yard requirement shall be measured from the centerline of the existing roadway and twenty-five (25) feet shall be added to the front yard requirement.

3.304. Accessory Structures. Maximum permitted height-unattached structure - Twenty (20) feet, except that the maximum permitted height may be increased up to thirty (35) feet if lot size is three or more acres and front, side and rear setbacks are each at least fifty (50) feet.

Maximum yard regulations - Unattached accessory structures in all districts. Accessory structures unattached to a principal structure may be erected provided such structures are not located within the front setback, or within five (5) feet of any property line.

Attached accessory structures in all districts. When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this Law applicable to the principal building.

Non-residential accessory structures. Non-residential accessory structures shall comply with front and side yard requirements for the principal structure to

which they are accessory and shall not be closer to any rear property line than ten (10) feet.

§3.400. Non-Conformance

3.401. Continuation and Prior Approval. A use, building or structure, lawful prior to the adoption or subsequent amendment of this Law, may continue, although not in conformance with this Law. Nothing herein shall require any change in the plans, construction or designated use of a structure in compliance with previous laws, or for which a final permit had been duly granted prior to the date of adoption of this Law or any applicable amendment thereto.

3.402. Maintenance and Enlargement of Non-conforming Structures. A structure in lawful existence prior to the adoption or subsequent amendment of this Law that meets the use regulations but does not meet yard, setback and/or height regulations of the district in which it is located, may be repaired and maintained. Such a nonconforming structure may be reconstructed, extended, added on to, substituted or structurally altered provided the proposed construction project conforms in all possible respects to the height, setback, use and yard requirements of this Law, and does not increase the degree of any nonconformity.

3.403. Regulation of Nonconforming Uses. Except as provided herein, no nonconforming use may be enlarged, extended, reconstructed, substituted or structurally altered.

3.403.1. Change of Use

A. A nonconforming use may not be changed into another nonconforming use.

B. A nonconforming use may be changed into a conforming use in accordance with this Law.

3.403.2. Repairs, Maintenance or Structural Additions to a Non-Conforming Use

A. Normal maintenance, repairs and alterations incidental to a building or other structure containing a nonconforming use is allowed, provided it does not extend the area or volume of space occupied by the nonconforming use.

B. A building or other structure containing a residential non-conforming use may be altered in any way to improve interior livability, provided that no alterations shall be made which would increase the number of dwelling units or square footage.

C. A building or other structure containing a residential nonconforming use may be the site of a minor exterior structural addition or alteration, such as the addition of an unenclosed porch, deck, stairway, or enclosed accessory structure, or other similar facility provided that such proposed construction conforms in all respects to the affected district's height, setback and yard requirements and does not increase the degree of any yard, volume of space, parking or other nonconformity of the property.

D. With special authorization from the

Planning Board, the inspector may allow up to a 25% expansion of a nonconforming use. A larger expansion would require an area variance from the ZBA. Special authorization shall be solicited from the applicant by submitting the following documentation at least two weeks (14 days) prior to the Planning Board meeting at which it is to be introduced, on forms prescribed by the Inspector:

1. A completed application form, containing the applicant's name, address and interest in the property; the name of the owner of the subject property (if different from the applicant); the subject property address; the current zoning district classification and present use of the subject property.

2. A written general description of the proposed project.

3. A minimum of ten (10) copies of a site plan, at a scale of one (1) inch to fifty (50) feet or less as may be required by the Inspector, which shall display:

a. A north arrow, property boundary lines, scale and date.

b. All proposed buildings, fencing, paving, sidewalks, storage areas, curbing, parking and loading areas, access drives, exterior lighting, open space areas, recreational facilities, landscaping, utilities, drainage, signs, storm water facilities, typical building elevations, site contours and general building layout or floor plan and any other planned improvements.

3.404. Termination of a Non-Conforming Use

3.404.1 Abandonment. The discontinuance of a non-conforming use for a period of one (1) year shall be considered an abandonment thereof and such nonconforming use shall not be revived. Occupancy of a residential structure shall require that the structure be occupied and/or operated for at least one thirty (30) consecutive day period. In the case of a commercial or institutional use, occupancy shall require that the structure be occupied and/or operated for a sufficient time period to indicate that the property in question is employed for a legal actual and viable business or not-for-profit enterprise.

3.404.2 Change of Use. The change of a nonconforming use to a conforming use for any period of time shall be considered an abandonment of the nonconforming use and such nonconforming use shall not be revived.

3.405. Damage or Destruction

3.405.1 Partial Damage

A. Where any structure containing a non-conforming use is partially damaged or destroyed by any means to the extent of fifty percent (50%) or less of the cost of replacement of the structure new, repairs may be made to reconstruct the structure and use as it existed prior to the damage. No repairs or restorations shall be made which increase the degree of any yard, volume of space, parking or other nonconformity existing prior to the damage. In all cases they may be allowed to lessen the degree of

nonconformity.

B. In the event said structure remains vacant due to partial damage, the owner or agent shall have one (1) year to apply for a building permit. In the event the building remains vacant for one (1) year without application for a building permit, it shall constitute an abandonment and such nonconforming use shall not be revived.

3.405.2 Substantial Damage or Destruction of a Non-conforming Use. In the event that any structure containing a nonconforming use is substantially damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of such structure and use thereof shall conform to all current regulations of this Law.

3.405.3 Substantial Damage or Destruction of a Non-Conforming Structure. In the event that any non-conforming structure is substantially damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of such structure new, such structure shall not be restored unless the structure and use thereof shall conform to all current regulations of this Law.

3.406. Nonconforming lots.

A nonconforming lot officially subdivided prior to the effective date of this Law may be utilized as if it were a conforming lot provided that all of the following conditions are met:

A. The proposed use is allowed within the district

under the provisions of this Law.

B. The proposed use and structure will conform to all requirements of the appropriate district including all space, bulk and setback requirements, excluding lot size, frontage and width to depth ratio. Fifteen (15) foot minimum frontage is required on a public road.

C. The use conforms to all other applicable local, county, state and federal land use regulations including New York State SEQRA requirements.

D. The site possesses adequate water and sewer capacity as verified by the Albany County Department of Health, as required.

§ 3.500. Temporary Structures

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for six-month periods by the Building Inspector.

§ 3.600. Signs

Signs may be erected and maintained only when in compliance with the provisions of this Article and any and all other laws and regulations relating to the erection, alteration or maintenance of signs and similar devices. Flashing signs are prohibited in all districts.

3.601. Signs in Residential Districts

3.601.1 Residential and Accessory Home Occupations,

Professions and Trades. One sign attached flat against a wall of the building, not to exceed two (2) square feet, and one (1) detached sign, not to exceed six (6) square feet, for each dwelling unit providing the occupation or service on the premises.

3.601.2 Other permitted Uses.

A. In R-B districts, not more than two (2) signs pertaining to a permitted use with a total area of not more than ten (10) square feet each.

B. In R-A and MDR Districts, not more than two (2) signs pertaining to a permitted use with a total area of not more than twelve (12) square feet each.

C. In R-F and R-2 Districts, not more than two (2) signs pertaining to a permitted use with a total area of not more than sixteen (16) square feet each.

3.601.3 For Sale Signs. In addition to any signs authorized by the preceding sections, one (1) temporary, unlighted sign not over six (6) square feet in area pertaining to lease or sale of the property on which it is displayed shall be permitted.

3.602. Signs in Industrial, Commercial and Com-Hamlet Districts.

3.602.1 Attached Business Sign (Including Temporary Signs). Not more than three (3) signs, not to exceed a total combined area of fifty (50) square feet, attached flat against the wall of the building, advertising the name of the

firm or the goods or services available or produced on the premises.

3.602.2 Detached Business Signs (Including Temporary Signs). One (1) sign, not attached to the building, advertising the name of the firm or goods or services available or produced in each separate business establishment and not to exceed twenty-five (25) square feet in area including the area of both sides if both used for pedestrian or vehicular traffic.

3.602.3 The total sign area of all permitted signs for one permitted use under Sections 3.602.1 and 3.602.2 shall not exceed seventy-five (75) square feet.

3.602.4 Attached Home Occupations Professions and Trades Signs (Including Temporary Signs). Not more than two (2) signs, not to exceed a total combined area of twenty (20) square feet, attached flat against the wall of the building advertising the name of the home occupation, profession or trade for each dwelling unit providing the occupation or service on premises.

3.602.5. Detached Home Occupation Professions and Trades Signs (Including Temporary Signs). One (1) sign, not exceeding fifteen (15) square feet, detached from the building advertising the name of the home occupation, profession or trade for each dwelling unit providing the occupation or service on premises, not to exceed six (6) feet in height.

3.603. General Sign Regulations, Permanent and Temporary.

3.603.1. Sign Area. The maximum areas for signs set forth in this Article shall apply to a single side of any such sign and the use of two sides of such sign is permitted and when so used be considered as one (1) sign so long as the interior angle formed by the two display surfaces shall not exceed fifteen (15) degrees.

3.603.2. Height of Detached Signs. No sign, not attached to a building, shall exceed twenty-five (25) feet in height.

3.603.3. Attached Signs. No sign attached to a building shall project above the peak of a roof line or parapet wall, whichever is the higher.

3.603.4. Detached Sign Setback. The setback for a sign not attached against a building shall be not less than half (1/2) of the building setback for the district involved.

3.603.5. Existing Signs. Any existing sign, where the alteration, repair, or change to the advertisement (relating to use, occupant or occupancy) is not in kind, is subject to the provisions of this Article.

3.603.6. Illuminated Signs. Stationary or revolving illuminated signs are permitted in industrial and all commercial districts by special use permit only.

3.603.7. Exterior Lighting. Exterior lighting of buildings or grounds is permitted in all commercial and industrial districts only, provided such lighting be from shaded sources and be so located that beams are not directed toward any residential property or public highway.

§3.700. Home Occupations.

Any home occupation as defined in this Law, shall be permitted as an accessory use in residential districts if it complies with the requirements of this section.

The home occupation shall be carried on by a member of the family residing in the dwelling unit only. Two employees who are not part of the family are permitted.

The home occupation shall be carried on entirely within the dwelling.

Exterior displays or signs, other than those permitted under Section 3.600, exterior storage of materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.

Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.

No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.

Parking shall be provided off-street and shall not be located in front yards except with special use permit.

§3.800. Proposed Streets

After a line of a future street is placed on the official map of the Town, buildings shall be set back from such line as though it

were a street line.

§3.900. Storage of Motor Homes, Boats, Trailers and Trucks

No unregistered motor home, boat, trailer or truck shall be placed in the front yard or side yard in any district. In addition, when such vehicles or boats are stored elsewhere, they shall be stored in a manner that is not obnoxious.

Article IV. Special Use Permits

§4.000. Purpose

The purpose of Special Use Permits is to provide for evaluation and approval of uses, beneficial and allowable within a particular zoning district, provided certain controls and conditions are implemented and/or exist. A Special Use Permit shall not involve the varying of this Law, but rather assurance of compliance with provisions stated, which make Special Use Permits compatible with other allowed uses within the zoning district.

§4.100. Applicability

A building, structure, or parcel of land may be employed for a special use if the use is specifically listed as a special use in the regulations governing the zoning district, and if a special permit is approved by the Planning Board in accordance with this section.

§4.200. Optional Preapplication Procedure

Prior to filing a Special Use Permit application as per Section 4.300 a prospective applicant may,

at their discretion, make a preapplication. This submission shall not be considered an official submission, but shall be for the purpose of establishing an advance, insofar as possible, the extent to which the proposed use concept is consistent with this Law and the Town Comprehensive Land Use Plan.

4.201. Optional Preapplication Submission Requirements.

A. An acceptable presubmission shall include the following:

1. A sketch site plan, substantially to scale, showing existing and proposed buildings, roads, drives, parking areas and utilities, and the relationship of physical site elements to buildings or lots within fifty (50) feet of the property line of the site.

2. A narrative explaining the nature of the proposed special use to the Inspector.

B. As soon as practically feasible, the Inspector shall transfer the sketch site plan and narrative to the Chair of the Planning Board. A preapplication conference shall be scheduled by the Chair to take place at a regular meeting of the Planning Board, no less than fifteen (15) days, no more than forty-five (45) days from the date a sketch site plan is received by the Inspector. The applicant shall be provided at least five (5) days notice of the meeting by the Inspector.

C. The applicant shall be present to participate in the preapplication

conference. Upon mutual agreement between the Planning Board and the applicant or applicant's agent, a preapplication conference may be re-scheduled exceeding the time limits established in Section 4.201.B.

4.202. Preapplication Review.

A. Upon review of a sketch site plan, the Planning Board may determine to waive or modify any of the application requirements of Section 4.300, if the Board deems such information unnecessary or extraneous to review of the project proposed in the sketch site plan. However, the Planning Board reserves the right to require any application components waived as a result of the sketch site plan review process, in the event a project concept submitted in the Special permit application has been changed from that represented on the sketch site plan.

B. Record of the presubmission conference and a copy of the sketch site plan and narrative statement shall be recorded in the minutes of the Planning Board. Action taken by the Planning Board at the preapplication conference shall be binding on the Planning Board provided the concepts approved at the preapplication conference do not interfere with the project's overall compliance with this Law and other applicable County, State and federal laws and requirements.

§4.300. Special Use Permit Application Procedure.

A special permit application shall be filed

with the Inspector by the owner or owner's agent, at least two weeks (14 days) prior to the Planning Board meeting at which it is to be introduced, on forms prescribed by the Inspector. A non-refundable special permit application fee, as set forth by the Town Board shall accompany each application. A special permit application shall contain the following to be deemed complete:

A. A completed application form, containing the applicant's name, address and interest in the property; the name of the owner of the subject property (if different from the applicant); the subject property address; the current zoning district classification and present use of the subject property.

B. A written general description of the proposed project, the number of buildings to be constructed or converted, their present and proposed uses and the number and type (resident, employee, or etc.) of occupants anticipated to be accommodated by the project after completion.

C. A minimum of ten (10) copies of a site plan, at a scale of one (1) inch to fifty (50) feet or less as may be required by the Inspector, which shall display:

1. A north arrow, property boundary lines, scale and date.

2. Existing structures within two hundred (200) feet of the property boundaries and an indication of any water bodies or other sensitive environmental features lying within two hundred

(200) feet of the site.

3. All proposed buildings, fencing, paving, sidewalks, storage areas, curbing, parking and loading areas, access drives, exterior lighting, open space areas, recreational facilities, landscaping, utilities, draining, signs, storm water facilities, typical building elevations, site contours and general building layout or floor plan and any other planned improvements.

4. Wells and effluent treatment systems serving the site and documentation of preliminary approval by the Albany County Department of Health, N.Y. State Health Department or Department of Environmental Conservation, or where these agencies have no authority, evidence that a Town Designated Engineer has reviewed and approved the proposed system.

5. The following site information shall be required any may be provided in the site plan or on additional drawings, as appropriate:

a. Location of any water bodies, floodplains, wetlands or other potentially sensitive environmental features.

b. Location of topographic slopes in excess of 15% grade.

c. Location of exposed bedrock and other significant geological features.

D. A statement and documentation, as may be required by the Planning Board, or other section of this Law, or other relevant Town code, describing the intended method of

ownership and maintenance of open space.

E. Copies of any applications or reports as required to comply with the State Environmental Quality Review Act.

F. Other elements integral to the proposed development necessary as determined by the Planning Board to carry out the intent of this Law, including, but not limited to, environmental testing.

G. The names and mailing addresses of all owners within five hundred (500) feet of the property to which the application applies.

§4.400. Application Hearing

Within forty-five (45) days of receipt of a complete special permit application, the Planning Board shall hold a public hearing to receive comments on the application. Notice shall be provided by the Planning Board in accordance with §274-a of New York State Town Law and any amendments thereof.

§4.500. Planning Board Action on Application

After considering the evidence presented at the public hearing and after making any further investigations considered necessary to ensure compliance with this code, the Planning Board shall determine whether or not to grant a special permit for the proposed use by applying the following standards:

A. Operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, odors,

vibration, illumination, or other potential nuisance, than the operation of any allowed use in the particular district; and

B. General site standards:

1. Community infrastructure and services, including protective services, roadways, garbage collection, schools, and water and sewer facilities, are currently, or will be, of adequate capacity to accommodate the proposed use.

2. The proposed site possesses adequate soil capacity and natural features to safely support proposed facilities and structures, including water and septic services at the site.

3. The proposed use, building design, and site layout complies with all applicable provisions of the Zoning Law, as well as any other Town, State or federal laws or standards.

4. Vehicular and pedestrian traffic patterns associated with the proposed use will be appropriate and satisfactorily established and managed for the area involved. Factors for the Planning Board to consider in making this determination include turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provision for pedestrian traffic, capacity of existing roads, and minimizing pedestrian-vehicular contacts.

5. The proposed use, design and layout will be of such a location, size, and

character, that it will be in harmony with the appropriate and orderly development of the surrounding area.

6. The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping shall be such that it will not significantly impact appropriate development of land adjacent to the proposed site.

7. In areas where there are patterns and similarities in the scale and design of neighborhood structures, the scale, design and material of the proposed structure(s) shall be compatible with existing structures within five hundred (500) feet of the site.

8. Adequate screening, landscaping, exterior lighting, signs and architectural design, compatible with the neighborhood, and of appropriate size and style will be provided to protect neighborhood properties within five hundred (500) feet of the site from any adverse impacts that might result from the proposed use.

9. The development will reflect the natural capabilities of the site to support such a use. Buildings, lots and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, such as wetlands, steep slopes, floodplains, and unique natural features, will be maintained and preserved.

10. The existing landscape

will be preserved in its natural state in so far as practical by minimizing tree removal, disturbance and compaction of soil and the project will provide adequate landscaping to define street edges and break up parking areas.

11. As appropriate, recreation areas and open space sufficient to meet the needs of users and residents will be provided, owned and managed in accordance with this Law.

12. The proposed use has been approved by all other governmental entities and agencies which have jurisdiction.

13. The proposed use will comply with the requirements of the State Environmental Quality Review Act.

14. Proper facilities are to be installed in compliance with any applicable storm water management plan or storm water management requirements.

C. The project is consistent with any advisory guidelines the Planning Board may adopt, for the Town as a whole, or tailored to specific geographic areas, such as hamlet areas or commercial corridors, as necessary to further implement the policies contained in the Town's Comprehensive Land Use Plan.

§4.600. Determination

4.601. Denial. If the Planning Board determines that the proposed use would not comply with the requirements of this Law and in particular with the standards stated in Section 4.500, it shall deny the

application.

4.602. Approval. If the Planning Board determines that the proposed use will comply with this Law and in particular with the standards stated in Section 4.500, the Board shall grant a special use permit for the proposed use.

4.603. Conditional Approval. In rendering its decision, the Board shall issue a written decision that shall include any reasonable additional conditions imposed on the proposed use by the Board to prevent or minimize any potentially adverse impacts of the proposed use on adjacent properties or the surrounding neighborhood. Such conditions may incorporate the standards set forth in Section 4.500. Such conditions shall only go as far as to minimize or mitigate any adverse impacts directly associated with the use in question and the conditions imposed may not have the primary effect of benefiting the Town.

§4.700. Action on the Application

Upon making a determination on the application for a special use permit, the Planning Board shall file its decision with the Town Clerk and inform the Inspector. If the application for a special use permit is approved, the Inspector will issue a written permit to the applicant, containing the Planning Board's written explanation of any special conditions of the permit. If the Planning Board disapproves the application, the Inspector shall not issue a building or use permit to the applicant but shall supply

a copy of the Planning Board's written notice of the disapproval to the applicant.

§4.800. Effect of Issuance

The issuance of a Special Use Permit shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the processing of applications for any permits or approvals which may be required by Town, County or State codes. Where applicable, the review of a Special Use Permit application shall replace Site Plan Review that otherwise would be required under Section 5.000 Site Plan Review.

§4.900. Limitations on Special Use Permits

A. A Special Use Permit shall authorize only the use described in the approved application and permit materials.

B. A Special Use Permit shall be valid upon date of Planning Board approval.

C. A Special Use Permit shall not expire upon change in property ownership or property transfer.

§4.1000. Expansion or Alteration of Special Use Permit

A. A new special use permit shall be required prior to issuance of any permit to extend, alter or vary the permitted Special Use as described in permit documents. Applications for such a permit shall follow

the application review procedures described in this Article.

§4.1100. Expiration of Special Use Permit

A. A Special Use Permit shall expire if the use for which it was granted shall cease for more than one (1) year.

B. Where a building permit is required in connection with a special use permit, it must be applied for and obtained within one (1) year of the special use permit approval, and remain active and renewed as necessary through completion and issuance of a certificate of occupancy, use or compliance, to avoid expiration of the special use permit. One or more extensions of time, not to exceed one (1) year each, may be granted by the Planning Board to extend the life of a Special Use Permit, provided the facts which supported granting the permit have not materially changed.

§4.1200. Exceptions

The requirements for a special use permit shall not apply to any use lawfully existing as of the effective date hereof.

§4.1300. Existing Violations

No special use permit shall be issued for a property whereon there exists a violation of this Law, or upon which a violation would exist if a special permit were to be issued, other than that explicitly approved by special use permit, except for a showing of extraordinary circumstances and a specific finding relative

to such showing by the Planning Board.

Article V. Special Regulations

§5.000. Site Plan Review

The purpose of Site Plan Review is to provide for the review and approval of development plans to ensure that land development occurs in harmony with surrounding uses, without causing adverse impacts to neighboring parcels, property values, public facilities, infrastructure or the natural environment.

5.001. Applicability.

A. Prior to approval of a building permit for any project to which this section applies, a site plan must be approved by the Planning Board and file with the Town Clerk.

B. The requirements of this section shall apply to the following projects only if a special use permit is not required and whether or not such development includes a subdivision or resubdivision of a site:

1. All commercial, industrial, educational, municipal facility or institutional development;

2. All new multiple dwellings;

3. Any expansion, or successive expansions within a three (3) year period, of an existing commercial or industrial property or multiple dwelling which involves cumulatively increasing the gross floor area of an existing structure by more than twenty (20) percent, provides such expansion involves at least five hundred (500) square feet;

4. Any conversion of an existing residential structure to a nonresidential use;

5. Conversion or modification of any existing structure into a structure containing three (3) or more dwelling units;

6. Any new development or expansion of a mobile home park;

7. Any change of an existing nonresidential building from one type of use to another (i.e., conversion of a commercial structure to an industrial facility);

C. This section does not apply to the construction of single family homes, two family dwellings and agricultural or forest management buildings or structures.

D. Construction of a Tower, as defined in this Law, requires a Special Use Permit, as outlined in Article IV of this Law, and is subject to Site Plan Review (sections 5.000 to 5.013), regardless of zoning district. A Special Use Permit should only be granted when the Tower coincides with the goals of the community/Town. Development of future Towers should not sprawl along the Heldeberg Mountains, but instead be contained in the area of existing Towers.

5.002. Optional Preapplication Procedure. Prior to filing a Site Plan application as per Section 5.005, a prospective applicant may, at their discretion, make a preapplication. This submission shall not be considered an official submission, but shall be

for the purpose of establishing in advance, insofar as possible the extent to which the proposed use concept is consistent with this Law and the Town's Comprehensive Land Use Plan.

5.003. Optional Preapplication Submission Requirements.

A. An acceptable preapplication shall consist of a sketch site plan, substantially to scale, showing existing and proposed buildings, roads, drives, parking areas and utilities, and the relationship of physical site elements to buildings or lots within fifty (50) feet of the property line of the site.

B. As soon as practically feasible, the Inspector shall transfer the sketch site plan to the Chair of the Planning Board. A preapplication conference shall be scheduled by the Chair to take place at regular meeting of the Planning Board, no less than fifteen (15) days, nor more than forty-five (45) days from the date a sketch site plan is received by the Inspector. The applicant shall be provided at least five (5) days notice of the meeting by the Inspector.

C. The applicant or the applicant's agent shall be present to participate in the preapplication conference. Upon mutual agreement between the Planning Board and the applicant or applicant's agent, a preapplication conference may be re-scheduled exceeding the time limits established in Section 5003.B.

5.004. Preapplication Review.

A. Upon review of a sketch site plan, the Planning Board may determine to waive or modify any of the application requirements of Section 5003.B., if the Board deems such information unnecessary or extraneous to review of the project proposed in the sketch site plan. However, the Planning Board reserves the right to require any application components waived as a result of the sketch site plan review process, in the event a project concept submitted in the Site Plan application has been changed from that represented on the sketch site plan.

B. Record of the preapplication conference. A copy of the sketch site plan and discussion of same, shall be recorded in the minutes of the Planning Board. Action taken by the Planning Board at the preapplication conference shall be binding on the Planning Board provided the concepts approved at the preapplication conference do not interfere with the project's overall compliance with this Law and other application County, State and federal laws and requirements.

5.005. Site Plan Application Procedure. A site plan application shall be filed with the Inspector by the owner or owner's agent, at least two weeks (14 days) prior to the Planning Board meeting at which it is to be introduced, on forms prescribed by the Inspector. A non-refundable site plan application fee, as set forth by the Town Board shall accompany each

application. A site plan application shall contain the following to be deemed complete:

A. A completed application form, containing the applicant's name, address and interest in the property; the name of the owner of the subject property (if different from the applicant); the subject property address; the current zoning district classification and present use of the subject property.

B. A minimum of ten (10) copies of a site plan, at a scale of one (1) inch to fifty (50) feet or less as may be required by the Inspector, which shall display:

1. A north arrow, property boundary lines, scale and date.

2. Existing structures within two hundred (200) feet of the property boundaries and an indication of any water bodies or other sensitive environmental features lying within two hundred (200) feet of the site.

3. All proposed buildings, fencing, paving, sidewalks, storage areas, curbing, parking and loading areas, access drives, exterior lighting, open space areas, recreational facilities, landscaping, utilities, drainage, signs, storm water facilities and any other planned improvements.

4. Wells and effluent treatment systems serving the site and documentation of preliminary approval by the Albany County Department of Health, N.Y. State Health Department or Department of Environmental Conservation, or where

these agencies have no authority, evidence that a Town Designated Engineer has review and approved the proposed system.

5. The following site information shall be required and may be provided on the site plan or on additional drawings, as appropriate:

a. Location of any water bodies, floodplains, wetlands or other potentially sensitive environmental features.

b. Location of topographic slopes in excess 15% grade.

c. Location of bedrock and other significant geological features.

C. A statement and documentation as may be required by the Planning Board or other section of this Law or other relevant Town law describing intended method of ownership and maintenance of open space.

D. Copies of any applications or reports as required to comply with the State Environmental Quality Review Act.

E. Other information determined by the Inspector or Planning Board as necessary to review the development for compliance with this Law, including but not limited to building elevations, fences, plant materials, and elevations and front views of all signs to be employed at the project.

F. Application for a Site Plan Approval shall be accompanied by a fee in accordance with the fee schedule established by the Town Board.

5.006. Application Hearing.

Upon receipt of a complete site plan application, the Inspector shall refer the application to the Planning Board. The Planning Board shall review the site plan application and, within forty-five (45) days of receipt, the Planning Board may schedule a public hearing to receive comments on the application.

5.007. Planning Board Action on Application.

The Planning Board shall review the project to determine consistency with the following standards:

A. Site design:

1. Community infrastructure and services, including protective services, roadways, garbage collection, schools, and water and sewer facilities, are currently, or will be, of adequate capacity to accommodate the proposed use.

2. The proposed site possesses adequate soil capacity and natural features to safely support proposed facilities and structures, including water and septic services at the site.

3. The proposed use, building design, and site layout complies with all applicable provisions of the Zoning Law, as well as any other Town, State or federal laws or standards.

4. Vehicular and pedestrian traffic patterns associated with the proposed use will be appropriate and satisfactorily established and managed for the area involved. Factors for the Planning Board to consider in making this determination include turning movements in

relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provision for pedestrian traffic, capacity of existing roads, and minimizing pedestrian-vehicular contacts.

5. The proposed use, design and layout will be of such a location, size, and character, that it will be in harmony with the appropriate and orderly development of the surrounding area.

6. The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping shall be such that it will not significantly impact appropriate development of land adjacent to the proposed site.

7. In areas where there are patterns and similarities in the scale and design of neighborhood structures, the scale, design and material of the proposed structure(s) shall be compatible with existing structures within five hundred (500) feet of the site.

8. Adequate screening, landscaping, exterior lighting, signs and architectural design, compatible with the neighborhood, and of appropriate size and style will be provided to protect neighborhood properties within five hundred (500) feet of the site from any adverse impacts that might result from the proposed use.

9. The development will reflect the natural capabilities of the site to

support such a use. Buildings, lots and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, such as wetlands, steep slopes, floodplains, and unique natural features, will be maintained and preserved.

10. The existing landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil and the project will provide adequate landscaping to define street edges and break up parking areas.

11. As appropriate, recreation areas and open space sufficient to meet the needs of users and residents will be provided, owned and managed in accordance with this Law.

12. The proposed use has been approved by all other governmental entities and agencies which have jurisdiction.

13. The proposed use will comply with the requirements of the State Environmental Quality Review Act.

14. Proper facilities are to be installed in compliance with any applicable storm water management plan or storm water management requirements.

B. The Planning Board shall review the site plan for consistency with any advisory guidelines the Planning Board may adopt, for the Town as a whole, or tailored to specific geographic areas, such as hamlet areas or commercial

corridors, as necessary to further implement the policies contained in the Town's Comprehensive Land Use Plan.

5.008. Determination. The Planning Board shall either approve, approve with conditions or disapprove the application within forty-five (45) days after such hearing. If there is no public hearing held, the Planning Board shall either approve, approve with conditions or disapprove the application within forty-five (45) days of receipt of a complete application. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. In acting on a site plan application, the Planning Board may issue any one of the following decisions:

A. Approval. Upon approval of the site plan, the Planning Board shall endorse a copy of the site plan and immediately file it with the Town Clerk. The Inspector shall notify the applicant of approval.

B. Conditioned Approval. Upon conditioned approval of the site plan, the Planning Board shall issue a written statement to the applicant, indicating the modifications which are required prior to approval of the site plan. After adequate demonstration to the Planning Board that all conditions will be met, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it with the Town Clerk, along with the written statement containing modifications required by the Planning Board. The applicant shall

be transmitted a copy of the same.

C. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant.

5.009. Action on the Application. Upon making a determination on the application for a Site Plan Permit, the Planning Board shall file its decision with the Town Clerk and inform the Inspector. If the application for a Site plan Permit is approved, the Inspector will issue a written permit to the applicant, containing the Planning Board's written explanation of conditions of the permit, if any. If the Planning Board disapproves the application, the Inspector shall not issue a building or use permit to the applicant but shall supply a copy of the Planning Board's written notice of the disapproval to the applicant.

5.010. Effect of Issuance. The issuance of a Site Plan Permit shall not authorize the establishment or extension of any use, nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the processing of applications for any permits or approvals which may be required by Town, County or State codes.

5.011. Limitations on Site Plan Permits. A Site Plan Permit shall not be valid for a period longer than (1) year from the date of issuance if a building

permit for all improvements necessary to initiate the site plan has not been issued. If a building permit has been issued within the first year, and construction is diligently pursued to completion within the third year, the Site Plan Permit shall remain in full force. In the event construction has not been completed three (3) years from the date of permit issue, the Site Plan Permit shall expire, unless extended by the Planning Board. The Inspector shall be responsible to carry out any administration or enforcement duties related to the expiration of a Site Plan Permit.

5.012. Expansion or Alteration of Site Plan Permit. A Site Plan Permit authorizes only the activity expressly described in the application and approved permit materials. A new Site Plan Permit shall be required prior to the issuance of any permit for any expansion, alteration or variation of a use already authorized. A request for such a permit shall be subject to the application and review procedures described in this Article.

5.013. Failure to Take Action on Application. Failure of the Planning Board to render a decision within the prescribed time limits shall constitute approval by the Planning Board.

§5.100. Planned Unit Development

The Planned Unit Development regulations are intended to provide for new residential, commercial or manufacturing uses in which economies of scale, or

creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of this Law. In no case shall the regulations of this Article be so interpreted as to circumvent the benefits of this Law for the owners or residents of such development, or the owners or residents of adjacent properties.

The purpose of Planned Development shall be to encourage development which will result in:

A. A choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and long-term asset to the Town.

B. Open space and recreation areas.

C. A pattern of development which preserves unique natural features such as but not limited to outstanding natural topography and geologic features and prevents soil erosion.

D. An efficient use of land resulting in smaller networks of utilities and streets.

E. An environment in harmony with surrounding development.

F. A more desirable environment than would be possible through the strict application of other sections of the Law.

G. Creation of new hamlets when needed to prevent the sprawl of the residential area.

H. Encourage energy

efficiency.

5.101. Establishment of a Planned Unit Development District. Application for the establishment of a Planned Unit Development District by amendment of the Town Zoning Law shall be made in writing to the Town Board. Application shall be made by the owner(s) of the land(s) to be included in the district, or by a person or persons holding an option to purchase the lands contingent only upon approval of the application for the change of zone.

The Town Board shall refer the application to the Planning Board. The Planning Board may require such changes in the preliminary plans as are found to be necessary or desirable to meet the requirements of this Law to protect the established or permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. The Planning Board shall notify the applicant of such changes and may discuss the changes with the applicant.

The Planning Board shall approve, approve with modification, or disapprove the application and shall report its findings to the Town Board. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application.

Following receipt of the report of the Planning Board, the Town Board shall hold a public hearing on the application. The Town Board shall then either amend the law to establish the Planned Unit

Development District or reject the application.

5.101.1 Planned Unit Development Standards. In all Planned Unit Development the following standards shall apply:

A. The area of land to be developed shall not be less than twenty-five (25) acres.

B. All Planned Unit Developments shall comply with the Town's Comprehensive Land Use Plan. The predominant use of the land shall not differ substantially from the uses permitted in the immediate vicinity.

C. All Planned Unit Developments shall have a gross maximum density of one family per 10,000 square feet of the area proposed for residential use.

D. At least ten (10) percent of the area of the Planned Unit Development shall be retained in usable open space for common usage.

5.101.2 Required Data. The applicant shall furnish with the petition for the desired zoning change basic data, including a map at a scale sufficient to show the boundaries of the proposed Planned Unit Development District, existing zoning, topography, draining and soil conditions, and such preliminary plans as may be required for an understanding of the proposed development and such additional information as may be required by the Planning Board and/or Town Board.

5.102. Establishment of a Building Project Within a

Planned Unit Development District. Upon the establishment of a Planned Unit Development District by the Town Board, no building or land shall be used in that District except by a special permit as provided in this Law under Article IV. Special Uses.

§5.200. Essential Services

Public utility services shall include electric substations, transformers, switches, and auxiliary apparatus serving a distribution area, and water and sewage pumping stations in all districts and shall be subject to the following regulations:

5.201. Such facility shall not be located on a residential street or other highway (unless no other site is available), and shall be so located as to draw to a minimum of vehicular traffic to and through such streets.

5.202. The location, design and operation of such facility may not adversely affect the character of the surrounding residential area.

5.203. Adequate fences, barriers and other safety devices shall be provided and shall be landscaped.

§5.300. Mobile Home

5.301. Mobile Home Parks. Each mobile home court or park located within the Town shall be subject to the following regulations.

A. Such facility shall be situated on a minimum parcel of five (5) acres of land.

B. Each mobile home shall be situated on a space of

not less than five thousand (5,000) square feet in area and at least fifty (50) feet in width and one hundred (100) feet in depth.

C. Surface drainage shall be such that it will not subject adjoining properties, streets or highways to improper, undirected drainage.

D. Such mobile home court or park shall not be closer than five hundred (500) feet to an R-H district and two hundred (200) feet from any permanent residential building located outside the mobile home court.

E. Each mobile home shall abut on a roadway of not less than thirty (30) feet in width with a pavement of not less than eighteen (18) feet. Each mobile home shall have a minimum setback of thirty (30) feet from any roadway center line.

F. All access pavements and parking berths shall be provided with a dust proof surface.

G. Each mobile home space or berth shall have a potable water connection, a sewage disposal connection, and an electrical power source.

H. All sewage shall be discharged into a public or private sewer system and/or disposal system approved by the Albany County Health Department.

I. Roadway or area lighting shall be reflected away from adjoining property, streets and highways.

J. A site plan at an appropriate scale as determined by the Planning Board, showing roadways,

parking berths, services structures and facilities, drainage, landscaping, lighting and provision for sanitary facilities shall be filed with the application for a permit.

K. Any permit required for a mobile home park shall be renewable each year. A fee shall be imposed for a mobile home park permit but not for individual mobile homes within the park.

L. A mobile home dwelling within a mobile home park in lawful existence prior to the adoption or subsequent amendment of this Law may be maintained, repaired, reconstructed, extended, added on to, substituted structurally altered or may be the site of a minor exterior structural addition or alteration, such as the addition of an unenclosed porch, deck, stairway, or enclosed accessory structure, or other similar facility provided that such proposed construction conforms in all respects to the affected district's height, setback and yard requirements and does not increase the degree of any yard, volume of space, parking or other nonconformity of the property. Sections 3.404 and 3.405 governing Termination, Damage or Destruction of a Nonconforming Use shall apply to mobile home dwellings.

5.302. Mobile Homes Outside of Mobile Home Parks.

A. The installation of a mobile home outside a specified mobile home park is prohibited.

B. A mobile home dwelling located outside of a mobile home park in lawful

existence prior to the adoption or subsequent amendment of this Law may be maintained, repaired, structurally altered or may be the site of a minor exterior structural addition or alteration, such as the addition of an unenclosed porch, deck, stairway, or accessory structure, or other similar facility provided that such proposed construction conforms in all respects to the affected district's height, setback and yard requirements and does not increase the degree of any yard, volume of space, parking or other nonconformity of the property. Sections 3.404 and 3.405 governing Termination, Damage or Destruction of a Nonconforming Use shall apply to mobile home dwellings.

With special authorization from the Planning Board, the Inspector may allow up to a 25% expansion of a mobile home outside a mobile home park. A larger expansion would require an are variance from the ZBA.

Special authorization shall be solicited from the applicant by submitting the following documentation at least two weeks (14 days) prior to the Planning Board meeting at which it is to be introduced, on forms prescribed by the Inspector.

1. A completed application form, containing the applicant's name, address and interest in the property; the name of the owner of the subject property (if different from the applicant); the subject property address; the current zoning district classification and present use of the subject

property.

2. A written general description of the proposed project.

3. A minimum of ten (10) copies of a site plan, at a scale of one (1) inch to fifty (50) feet or less as may be required by the Inspector, which shall display:

a. A north arrow, property boundary lines, scale and date;

b. All proposed buildings, fencing, paving, sidewalks, storage areas, curbing, parking and loading areas, access drives, exterior lighting, open space areas, recreational facilities, landscaping, utilities, drainage, signs, storm water facilities, typical building elevations, site contours and general building layout or floor plan and any other planned improvements.

§5.400. Swimming Pools

Swimming pools shall be permitted as an accessory use to one and two family dwellings and shall be regulated as follows:

A. A building permit will be required for construction of a non-portable swimming pool in the Town. Application for such a permit shall be made in writing to the Building Inspector and shall include an accurate plot plan of the lot on which the pool is to be built. The plot plan shall include the location of existing structures, lot lines and the proposed pool fencing.

B. The pool shall be located so as to conform to the yard restrictions as set forth in the zone it is

located in with the exception of the rear yard set-back. Swimming pools shall not be constructed nearer than fifteen (15) feet to the rear property line, nor less than ten (10) feet distant from the principal structure and shall not occupy more than 10% of the area of the lot on which it is located.

C. Outdoor swimming pools shall be provided with an enclosure which shall comply with the following:

1. Shall be at least four (4) feet in height and have a maximum vertical clearance of grade of two (2) inches.

2. Where a picket-type fence is provided, horizontal openings between pickets shall not exceed four (4) inches.

3. Where a chain-link fence is provided, the openings between links shall not exceed two and three-eighths (2 3/8) inches.

4. Enclosure shall be constructed so as not to provide footholds.

5. Picket and chain-link twists shall extend above the upper horizontal bar.

6. Such enclosure shall have railings and posts within the enclosure, which shall be capable of resisting a minimum lateral load of one hundred fifty (150) lbs. applied midway between posts and at top of posts respectively. Enclosure, fence material or fabric shall be capable of withstanding a concentrated lateral load of fifty (50) lbs. applied anywhere between supports on an area twelve (12) inches square, without failure or permanent

deformation. Gates provided in the enclosure, shall be self-closing and self-latching with the latch handle located within the enclosure and at least forty (40) inches above grade.

7. A wall of a dwelling is permitted to serve as part of the enclosure under the following conditions:

a. Windows in the wall shall have a latching device at least forty (40) inches above the floor.

b. A swinging door in the wall, shall be self-closing and self-latching.

c. A sliding door in the wall, shall have a self-latching device.

8. Exemptions:

a. Aboveground pools with at least forty-five (45) inches between pool decking or pool top and adjoining grade, are exempt from the requirements of Sub-section C, provided that their access ladder steps can be blocked in an approved manner when not intended for use.

b. A pool less than twenty-four (24) inches deep is exempt from the requirements of Part C.

D. Swimming pool wastes. Where sewage from the sanitary drainage system is disposed of through a private sewage disposal system, swimming pool wastes shall not be discharged into the regular sanitary drainage system but shall discharge through an independent sanitary drainage and disposal system.

E. Any electrical installations in connection

with or in the vicinity of the pool shall be accomplished by an qualified electrician and shall be inspected by the Town Building Inspector or his designated agent. The costs of these inspections will be borne by the home owner.

F. The pool shall be constructed and operated consistent with the New York State Code of Rules and Regulations governing swimming pools and methods of handling objectionable wastes.

Any provisions in the New York State Code of Rules and Regulations providing for more restrictive requirements for swimming pool, will take precedence over these regulations.

§5.500. Towers

Where radio, microwave, electric and transmission towers or satellite dishes are permitted as a special use in zones, such towers or dishes shall be placed at the highest point of elevation practical.

Article VI - Cluster Development

§6.000. Purpose

The purposes of authorizing the use of cluster development is to enable and encourage the flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands consistent with the goals and objectives of the New Scotland Comprehensive Land Use Plan. The granting of

design and development flexibility should promote superior land planning, affording greater economy, efficiency and convenience in the arrangement of land uses and their supporting infrastructure while maximizing the preservation of valuable open space, thereby protecting and preserving the natural and scenic qualities of such areas.

Specifically, the purposes of cluster development within the Town of New Scotland are to:

A. Promote the most appropriate use of land;

B. Facilitate the adequate and economical provision of streets and utilities;

C. Result in improved living and working environments;

D. Preserve open space and the natural and scenic qualities of open lands including environmentally sensitive features of development sites;

E. Preserve significant tracts of forested lands;

F. Preserve active agricultural lands;

G. Protect floodplains, wetlands, lakes, ponds, streams, and other natural features;

H. Promote development in harmony with the goals and objectives of the New Scotland Comprehensive Land Use Plan.

§6.100. Authority

Authorization is hereby granted to the Town of New Scotland Planning Board pursuant to Section 278 of the Town Law to require an

applicant to submit an alternate cluster development design. Any alternate cluster development design submission shall comply with the purpose, procedures, standards, and open space requirements set forth in this Law and the Town of New Scotland Subdivision Law. Any applicant may, on the applicant's own initiative, submit a proposed cluster development for consideration by the Planning Board.

§6.200. Standards

A. The Planning Board shall make the initial determination whether the utilization of an alternate cluster development design shall benefit the Town of New Scotland.

B. The Application of this procedure shall result in a permitted number of building plots or dwelling units which shall in no case exceed the number which could be permitted in the Planning Board's judgment if the land were subdivided into lots conforming to the minimum lot size, density requirements and Sliding-Scale Development requirements of the Zoning Law applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.

C. The use of clustering shall be allowed in all zones located within the Town of New Scotland. The Planning Board in its discretion may specify the amount and types of the various housing units permitted providing that the total number of units does not exceed that permitted for the

applicable residential zones in which the site is located.

D. All cluster housing stock must be compatible with the existing neighborhood character and the community's setting.

E. Whenever possible, cluster applications should discourage the locating of structures upon active agricultural or scenic open space areas of these sites while encouraging the use of natural land contours, relief, and active vegetation in the selection of suitable cluster building locations upon the site.

F. The waiver of zoning requirements by the Planning Board for cluster applications include, but not be limited to, lot size, lot width, lot depth, and other various yard requirements. The Planning Board shall consider the availability of public sewer and water facilities at the proposed site as an important factor in determining the lot size and lot coverage requirements of any cluster subdivision. Lot sizes shall be determined, in the discretion of the Planning Board, on a case-by-case basis, dependent on the presence or absence of on-site water and/or sewer, soil slopes and conditions, and other factors which the Planning Board finds to be relevant. The design of any on-site sewage disposal system(s) to be utilized on any cluster site must meet the design and operation standards of the New York State Department of Health and the Albany County Health Department.

G. The Planning Board in its design review of large

cluster subdivisions should consider requiring the applicant to examine the layout of small building clusters within the development, each having some open space immediately surrounding it, as a goal of proper site planning. This design technique will avoid a large, massive concentration of building units, with little or no differentiation, and will more appropriately match the character of the neighborhood in which the cluster development is to be located.

H. A suitable one hundred (100) foot vegetative buffer shall be required between cluster developments and neighboring land uses.

I. In unique circumstances, the Planning Board may vary the aforementioned numerical standards, providing such variance does not alter the established density and is not inconsistent with the stated purpose of this Article.

J. All cluster applicants are required, prior to the granting of final subdivision approval by the Planning Board, to make legal provisions consistent with Section 6.400 and approval of the Town of New Scotland Town Board for the future protection/management of the open space resulting from the utilization of cluster zoning.

§6.300 Cluster Application Procedure.

A. A cluster alternative design may be initiated by petition of the applicant or upon the direction of the Planning Board, if in

said Board's judgment, its usage would benefit the Town. The Planning Board shall within forth-five (45) days of the receipt of the cluster information specified below, transmit a written request to the Town Board for authorization to utilize a cluster design alternative to conventional zoning. Such written request shall be accompanied by a sketch plan of the cluster alternative, including preliminary information concerning the ownership of the resultant open space. Contingent upon receiving the Town Board's authorization, the Planning Board may require any applicant to submit an alternative cluster design subdivision plan in any zone located within the Town of New Scotland.

B. The submission and review of all cluster development applications shall conform to the Town of New Scotland Subdivision Law.

C. Prior to the submission of any alternative cluster designed subdivision, all applicants shall submit to the Planning Board the following unless waived by the Planning Board:

1. A conventional subdivision sketch plan which establishes, to the satisfaction of the Planning Board, the total acreage of the parcel in question.

2. A recent aerial photograph of the proposed site.

3. A copy of 7 1/2 U.S.G.S. topographic map, which indicates N.Y. S. regulated wetlands, of the proposed site.

4. A copy of a soils map of the proposed site.

5. Information regarding the current land use of the proposed site and the surrounding area.

6. Information regarding the availability of public sewer and water services to the proposed site.

D. The applicant shall provide the Planning Board with written information regarding the method which will be utilized for the ownership/management of any open space resulting from such application.

E. The Planning Board, in its deliberations on whether to approve or disapprove any cluster or alternative designed subdivision application, shall give great consideration to how closely such application conforms to the cluster standards set forth in Section 6.200.

F. Prior to the Planning Board's granting of any final cluster subdivision approval, the Town Board's approval shall be required as to the method to its approval of the method of ownership/management of the resultant open space. As a basis for determining this, the Town Board shall receive and forward to the Town Attorney copies of any required legal instruments, deeds, covenants, or conservation easements which relate to the final disposition and management of the open space prior to the approval of the Town Board.

G. Upon the filing of the final subdivision plat in the office of the County Clerk, a copy shall also be filed with the Town Clerk

and the Building Inspector. The applicant shall provide the Town Assessor with copies of all legal instruments relating to any land use restrictions which may affect the use of any real property located within the filed subdivision plat.

H. All legal instruments, deeds, covenants, or conservation easements relating to the final disposition, ownership and management of any open space resulting from the Planning Board's approval of any cluster zoning application, shall be established and filed of record prior to the conveyance of any cluster subdivision lots.

§6.400. Ownership/Management Requirements for Open Space.

A. The setting aside of open space, forested land, or active agricultural land in a clustered subdivision shall in no case preclude the Planning Board from requiring the dedication of parks, playgrounds or recreation lands.

B. The amount of land to be set aside as open space shall be, at a minimum no less than the percentage of the entire subdivision parcel which the lot sizes have been reduced via clustering.

C. Re-subdivision and/or development of any open space resulting from the use of clustering shall be prohibited.

D. Open space lands set aside in a cluster subdivision for parks, playgrounds or recreation purposes shall be provided in such a manner that the lands are usable for

recreation or other activities and are accessible to all residents of the subdivision or, where such lands have been conveyed to the Town, accessible to the public.

E. The Planning Board shall discuss with the applicant which of the following open space ownership and management options would be most suitable in fulfilling the purposes of this cluster regulation prior to the Planning Board granting a final approval of any cluster subdivision. The open space/management method selected must be approved by the Town Board. The applicant, as a condition of Town Board approval, shall provide a copy of the legal instrument(s) which provide for the protection and management of the open space to the Town Board and Town Attorney for their review.

1. Ownership/management by a single subdivision property owner.

2. Open space ownership/management by several subdivision property owners.

3. Open space ownership/management by a single, private non-subdivision property owner.

4. Open space ownership/management by a not-for-profit conservation organization.

5. Open space ownership/management by a homeowners' association.

6. Open space ownership/management by the developer.

7. Open space ownership/management by a

municipality.

F. The method of dedication of all open space land resulting from the use of clustering shall be referenced on the final subdivision plat. Such map notations shall also include specific references to any legal instruments utilized to effect such dedication.

G. The grant of a conservation easement to ensure the perpetual ownership and management of the open space resulting from clustering shall be required in all instances. All conservation easements shall be established and filed of record, prior to the conveyance of any cluster subdivision lots.

H. Wherever possible, active agricultural lands which are included in a proposed cluster design shall remain undeveloped and protected as an open space resource of the community. Continued use of such lands for agricultural purposes is encouraged.

I. Each deed to each lot sold by the original developer, its successors, and all subsequent owners, shall include by reference all recorded declarations, such as covenants, dedications, and other restrictions, including assessments and the provision for liens for nonpayment of such.

J. Homeowners' Associations. The following conditions shall govern the utilization of a Homeowners' Association, if selected as the preferred open space ownership/management option for a cluster subdivision:

The Homeowners' Association

shall be established as an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner and any succeeding owner is automatically a member, and each lot is automatically subject to a charge for a proportionate share of the expenses of the organization's activities, said proportion to be determined by the tax assessments on the properties.

2. Title to all common property, exclusive of land set aside for public schools if any, shall be placed in the Homeowners' Association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.

3. Each lot owner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common property.

4. Once established, all responsibility for operation and maintenance of the common land facilities shall lie with the Homeowners' Association.

5. Dedication of all common land areas shall be recorded directly on the subdivision plat or be referenced on the plat to a dedication in a separately recorded document. Re-subdivision of such areas is prohibited. The dedication shall:

a. Save the title to the common property to the Homeowners' Association free of any cloud implied

public dedication;

b. Commit the developer to convey the areas to the Homeowners' Association at the approved time to be determined by the Planning Board;

c. Grant easements of enjoyment over the area to the lot owner;

d. Give the Homeowners' Association of the right to borrow for improvements upon the security of the common areas; and

e. Give the Homeowners' Association the right to suspend membership rights for nonpayment of assessment of infraction of published rules.

6. The life of the Homeowners' Association shall be perpetual; and it shall purchase insurance, shall pay taxes, shall specify in its charter and bylaws an annual homeowner's fee and provisions for assessments, and shall establish that all such charges become a lien on each property in favor of said association. The association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it also shall have the right to commence action against any member for the collection of unpaid assessments in any court of competent jurisdiction.

7. In the event that the maintenance, preservation and/or use of the common land for open space or recreational use ceases to be in compliance with any of the above requirements specified by the Planning Board when approving cluster developments or the

Town Board in approving open space proposals, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual dwelling unit or lot owner within the development or subdivision all costs incurred by the town for such purposes.

8. The establishment of any Homeowners' Associations pursuant to this regulation shall be completed prior to the sale of any dwelling unit and/or lots within the development or subdivision. However, the developer shall assume all responsibilities as previously outlined for the Homeowners' Association until a majority of the dwelling sites are sold, at which time the Homeowners' Association shall automatically assume the aforementioned responsibilities.

Article VII - Homestead Allowance.

§7.000. Purpose.

It is the purpose of this Article to provide for the necessary construction of dwellings in the R-F and R-2 areas of the Town of New Scotland in a manner consistent with maintaining the maximum amount of rural natural area. By so doing, this article provides for the reasonable protection of forested lands and lands generally unsuitable to residential development due to existing topography and/or soil conditions, and implements the purposes of the Town's 1994 revised Comprehensive Land Use Plan.

§7.100. Limitations on Division of Property.

A. Application. The provisions of this Article shall apply to all parcels of land located in the Residential-Forestry (R-F) and the Residential-Conservation (R-2) zones as of the effective date of this Law.

B. For purposes of this Article, the term "parcel" shall mean a lot of land identified by the tax map boundaries in existence as of the effective date of this Law. Land divided by a road shall not be considered separate parcels for purposes of this Article, unless identified as separate by the tax map.

C. Notwithstanding any other provision of law, no parcel of land to which this Article applies may be divided or redivided into more total lots than allowed by application of the following scale:

In the R-F Zone:

One, one acre single family building lot for each ten acres in a parcel. The remainder of the parcel could only be divided into three acre or larger lots.

In the R-2 Zone:

One, one acre single family building lot for each eleven acres in a parcel. The remainder of the parcel could only be divided into two acre or larger lots.

D. Each subdivision plat hereafter submitted for approval and hereafter filed shall state the number of remaining divisions available to parcels shown in such plat, which shall be binding on all subsequent purchasers of such parcels.

Article VIII. Waivers and

Modifications

§8.000. Waivers

A. The Planning Board may grant a waiver of certain provisions contained herein where by reason of the exceptional shape of a specific piece of property, or where by reason of exceptional topographic conditions, the strict application of these regulations would result in extreme practical difficulties upon the owner of such property; provided, however, that such relief may only be granted without detriment to the public good and without substantially impairing the intent and purposes of these regulations.

B. In granting such waiver, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

§8.100. Modifications

The standards and requirements of this Law may be modified by the Planning Board in the case of subdivisions for complete communities or neighborhood units or other large scale developments which, in the judgment of the Planning Board achieve substantially the objective of the regulations contained herein and which are further protected by such covenant or other legal provisions as will ensure conformity to and achievement of the plan. Such developments must still comply with all applicable standards for Sliding-Scale Development and Cluster Development as set forth in the Town of New Scotland Zoning Law.

§8.200. Procedure for Applying

A. Applications for waivers and modifications shall be submitted in writing by the subdivider at the time the Preliminary Plat is filed with the Inspector. The application shall state fully the grounds and all the facts relied upon by the applicant.

B. Applications for reconsideration shall be submitted to the Inspector, in writing by the subdivider, not less than fourteen (14) calendar days in advance of a regularly scheduled Planning Board meeting at which reconsideration is desired.

Article IX. Zoning Board of Appeals

§9.000. Purpose

The purpose of this Article is to establish the organization, authority and responsibilities of the Town of New Scotland Zoning Board of Appeals (hereinafter the "ZBA"). The ZBA is established pursuant to §267 of New York State Town Law.

§9.100. Membership

A. The ZBA shall consist of five (5) members appointed by the Town Board. The Town Board shall appoint a Chair and members of the ZBA in accordance with the Town Law of the State of New York. An appointment to a vacancy occurring prior to expiration of a term shall be for the remainder of the unexpired term.

B. Upon temporary absence or disqualification of the Chair, members of the ZBA will appoint a temporary Acting Chair to preside for

up to three (3) consecutive meetings.

C. Upon resignation or disability of the Chair, involving a long term absence to exceed three (3) consecutive meetings, the Town Board shall appoint an Acting Chair to preside over the ZBA.

§9.200 Organization and Procedure

9.201. Meetings

A. The ZBA shall adopt and publicize a meeting schedule.

B. All hearings of the ZBA shall be public.

C. The ZBA shall keep minutes of its proceedings, showing the action taken and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep public records of all its activities. Each action taken by the ZBA on an application shall be filed with the Town Clerk.

D. The Chair may administer oaths and compel the attendance of witnesses.

9.202. Voting

A. A quorum entitling the ZBA to take action shall be a majority of the entire membership of the ZBA.

B. Each member present at a meeting shall be entitled to one (1) vote on each matter before the ZBA.

C. ZBA action may be taken only upon the concurring vote of a majority of the entire membership of the ZBA.

D. Any member who has a personal interest in a matter pending before the

ZBA shall disclose that an interest exists and shall abstain from voting on the matter. A majority of the disinterested members will be sufficient for ZBA action to be taken, provided a quorum exists.

§9.300. Powers and Duties

The ZBA shall have the following powers and duties under this Law:

9.301. Administrative Appeals. To hear and decide appeals from and review any order, requirement decision or determination made by an official charged with enforcing any part of this Law.

9.302. Grant Variances. To approve, approve with conditions, or disapprove appeals for variances from the strict enforcement of only the provisions of this Law which relate to the use, space, area and size standards of the district regulations and performance standards.

9.303. Permit Building in Bed of Mapped Streets. The ZBA, after due notice and hearings required under §279 of New York State Town Law, may grant a permit for a building on land within the bed of a mapped street located on the Official Map of the Town of New Scotland. Said Official Map to be in compliance with §270 of New York State Town Law. Said permit shall only be granted where the land within such mapped street is not yielding a fair return on its value to the owner. The ZBA may impose reasonable requirements as a condition of granting such permit designed to lessen, as practicable, increased costs of opening such street, of which tend

to cause a change of such Official Maps.

9.304. Interpret District Boundaries of this Law.

Upon appeal from a decision by the Inspector to decide any question involving the interpretation of any provision of this Law, or where uncertainty exists as to the boundaries of any zone district, the ZBA shall, upon written application or upon its own motion, determine the location of such boundaries of such districts as are established and as designated on the Official Zoning Map of the Town of New Scotland.

9.305. Authorize Temporary Uses.

To permit temporary occupancy and use of a structure in any district for a purpose that does not conform with the district requirements provided that such occupancy and use is truly of a temporary nature and subject to any reasonable conditions and safeguards which the ZBA may impose to minimize any negative effect upon the neighborhood or to protect contiguous property. The approval of the ZBA and any permit based thereon, for such temporary occupancy and use, shall not be granted for a period of more than twelve (12) months and shall not be renewable more than once, and then for a period of not more than twelve (12) months.

§9.400. Initiation of Proceedings

9.401. Procedure for Appellant.

A. An appeal to the ZBA pertaining to a ruling of any town officer administering any portion of this Law, may be taken

by any person aggrieved, or by an officer, department, board, or bureau of the Town affected. Such appeal shall be made by filing a notice of the appeal specifying the grounds of the appeal, with the Inspector and officer whose action is the subject of the appeals.

B. A notice of appeal shall be filed by the appellant within sixty (60) days of notification of the decision to which an appeal applies.

C. All applications and appeals made to the ZBA shall be in writing on forms prescribed by the ZBA. Every application or appeal shall contain the following information:

1. The name, address and phone number of the applicant or appellant.

2. The name and address of the owner of the lot to be affected by such proposed change or appeals.

3. A brief written description and location of the lot to be affected by such proposed change or appeal including the present zoning classification of the lot in question, the improvements thereon and the present use thereof, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction details.

4. Fifteen (15) complete copies of any application form prescribed by the ZBA.

5. Additional Information.

a. If seeking an interpretation, a written

description of the specific provision of the Law in question and the interpretation claimed and a sketch plan of the real property to be affected, indicating the location and size of improvements proposed to be completed.

b. If seeking a variance, fifteen (15) copies of a site plan as required by Section 5005.B., a legal description of the property, plans and elevations necessary to show the proposed variance, and other drawings or information reasonably considered necessary by the ZBA to establish an understanding of the proposed use and its relationship to surrounding properties.

6. Name and mailing addresses of the owners of all property within five hundred (500) feet of the subject property.

9.402. Procedure for the Inspector.

A. the Inspector shall forthwith transmit to the ZBA all papers consisting of the record upon which the action appealed from was taken, or in lieu thereof, certified copies of said papers.

B. It shall be incumbent upon the Inspector to recommend to the ZBA a modification or reversal of the Inspector's action in cases where the Inspector believes substantial justice requires the same but where the Inspector has not himself sufficient authority to grant the relief sought.

9.403. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from

unless the Inspector certifies for the ZBA, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, stay would, in the Inspector's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ZBA, or by the Supreme Court on application, on notice to the Inspector and on due cause shown.

9.404. Referral to the Planning Board.

A. upon receipt of any application to the ZBA, the ZBA shall transmit a copy of said application to the Planning Board and shall request that the Planning Board shall submit a report of such advisory opinion within forty-five (45) days and prior to the time set for the ZBA to render its decision. Failure of the Planning Board to submit such report shall be interpreted as a "no recommendation" opinion by the Planning Board.

B. In case of a request or an application to build in the bed of a mapped street, the Inspector shall transmit a copy of the application, plans, and other available data to the Planning Board, upon receipt. Prior to, or at the time of hearing, the Planning Board shall submit a report as to the probable effect such an application would have on the comprehensive land use plan and the public health, safety and welfare of the Town of New Scotland.

9.405. Public Hearings and Notice. The ZBA shall, within forty-five (45) days

of the receipt of Planning Board recommendations, hold a hearing and give public notice in compliance with §267 of New York State Town Law by publishing a notice of such hearing in the official paper at least five (5) days prior to the date thereof, and, at least five (5) days prior to the date of the hearing, mailing notices of the hearing to the following officials, persons and owners of property:

A. In case of an appeal alleging error or misinterpretation in any order or other action by the Inspector, the appellant, and the person or persons, if any, who benefit from the order, requirement, regulations or determination, and any regional state park commission having jurisdiction over any state park within five hundred (500) feet of the property affected by such appeal;

B. In case of an appeal for a variance, all owners of the property within five hundred (500) feet of the nearest line of the property for which the variance is sought, and to such other property owners as the Chair of the ZBA may direct.

9.406. Adjournment of Hearing. Upon the day for hearing any application or appeal, the ZBA may adjourn the hearing for a period not to exceed forty-five (45) days for the purpose of causing such further notices as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

§9.500. Decision

A. The ZBA shall decide each appeal within sixty (60) days from the date of the final hearing, and notice shall be given to all parties in interest in accordance with §267 of New York State Town Law. At the hearing any party may appear in person or be represented by an agent or attorney.

B. In the exercise of its functions upon such appeals or upon exceptions, the ZBA may, in conformity with the provisions of this Law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from or may make such order, requirement, decision or determination in accordance with the provisions thereof.

§9.600. Granting Appeals

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Law, the ZBA shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions set out here, in a way which observes the spirit of this Law and secures public safety, yet provides relief from practical difficulties or unnecessary hardship caused by this Law. In carrying out this power, the ZBA may modify a remedy requested by the appellant and prescribe and approve a remedy, the specifics of which, in their opinion, most closely effect the intent of this Law.

§9.700. Standards for Granting of Appeals

The ZBA shall grant an

appeal only when it finds that the following standards have been met:

A. Administrative Appeals. That the administrative official at whom the appeal is directed, erred in either interpretation of a code or in the application of it to a particular circumstance of the application. If the ZBA finds that the administrative official misinterpreted or misapplied the provisions of this Law or another code, the decision of the administrative official shall be reversed and the ZBA shall make an interpretation of the code to be used by the administrative official.

B. Area Variances. The ZBA shall have the power, upon an appeal from a decision or determination of the Planning Board to grant area variances as defined herein.

In making its determination, the ZBA 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 district, neighborhood or community by such grant. In making such determination the ZBA shall also consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an

area variance;

3. Whether the requested area variance is substantial;

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the district or neighborhood; and

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

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

C. Use Variances. The ZBA shall have the power, upon an appeal from the decision or determination of the Planning Board to grant use variances as defined herein.

No such use variance shall be granted by the ZBA 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 ZBA the following:

1. Under applicable zoning regulations the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

2. 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;

3. That the requested use variance, if granted, will not alter the essential character of the district or neighborhood; and

4. That the alleged hardship has not been self-created.

The ZBA, in granting a use variance, 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 district or neighborhood and the health, safety and welfare of the community.

§9.800. Imposition of Conditions

The ZBA shall, in granting of both use variance 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, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the district, neighborhood or community.

Such conditions may include, but are not limited to, specifications for the following:

- A. Vegetation, buffering,

and screening;

B. Increased setbacks, yards, and access restrictions;

C. Hours of use and operation controls;

D. Location and design of signs, parking, and lighting;

E. Conservation easements and other deed restrictions;

F. Professional maintenance and inspection of facilities or improvements necessary to ensure adequate maintenance and inspection;

G. Any other standard or specification contained in this Law.

§9.900. Expiration of Appeal Decision

Unless otherwise specified by the ZBA, a decision of any appeal or request for a variance shall expire if the applicant fails to obtain necessary building permits, or comply with the conditions of said authorized permit within one (1) year from the date of authorization.

§9.1000. Required Interval for Hearings on Applications and Appeals After Denial

Whenever, after hearing all evidence presented upon an application or appeal under the provisions of this Law, the ZBA shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, its successors or assigns, for a period of one (1) year, except and unless the ZBA shall find and determine from the

information supplied by the request for a rehearing, that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified.

**Article X.
Administration and Enforcement**

**§10.000.
Administrative Official**

The Building Inspector ("the Inspector") and his duly authorized assistant is hereby given the duty, power and authority to enforce the provisions of this Law.

§10.100. Duties of the Administrative Official

10.101. General Responsibility. Except as otherwise specifically provided by law, rule or regulation, or except as herein otherwise provided, the Inspector shall administer and enforce the provisions of laws, rules and regulations applicable to the plans, specifications or permit allocations for the construction, alteration and repair of buildings, structures or other land uses, the installation and use of materials and equipment therein and the location, use and occupancy thereof, and, when appropriate, issue permits accordingly.

10.102. Rules, Regulations and Forms.

The Inspector shall have the authority to make, adopt and promulgate written rules, regulations and forms as may be necessary for

administration and enforcement of the content and intent of this Law. The Inspector shall be responsible to submit such rules, regulations and forms to the Town Board, which shall move to approve, reject, or modify the same within sixty (60) days after submission. Once approved by the Town Board and file with the Town Clerk, rules, regulations and forms shall have the same force and effect as the provisions of this Law and be subject to the same penalties for violation thereof.

10.103. Entry and Inspection. The Inspector shall have the right to enter upon, examine and inspect, or cause to be entered, examined and inspected, any building or property, for the purpose of carrying out the provisions of this Law.

10.104. Receipt of Applications. The Inspector shall receive applications for the erection and alteration of buildings and structures or parts thereof.

Every application shall be signed by the owner, or, if signed by a person other than the owner, accompanied by a statement from the owner that the proposed work is authorized by the owner and that the applicant is authorized to make application and the owner's behalf and the Inspector is permitted to enter upon such premises without a search warrant.

10.105. Referral of Applications. The Inspector shall direct and refer any applicant or application to the appropriate agency to whom the application shall be presented prior to

issuance of a building permit.

10.106. Issuance of Notices of Violations. The Inspector is authorized to issue, in writing, on behalf of the municipality, all appropriate notices or orders as defined in Section 10.402.

10.107. Information From Other Sources. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, rules or regulations covering building construction or alteration, the Inspector, in his/her discretion, may accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratory or service and inspection bureaus or agencies.

10.108. Issuance of Certificate of Occupancy, Use or Compliance. The Inspector shall issue a certificate of occupancy, use or compliance, where appropriate, for a building constructed, altered or used in accordance with the laws and the laws of the Town of New Scotland, provisions of the New York State Uniform Fire Prevention and Building code and any other applicable laws or regulations.

10.109. Records and Supervision of Staff. The Inspector shall keep permanent official records of all transactions and activities conducted by the Inspector or staff including all applications received with accompanying plans and documents, permits and certifications issued, fees charged and collected, inspection

reports, all rules and regulations promulgated by the Town, notices and orders issued by the Inspector. The Inspector shall also have the responsibility of supervision of any employees including, but not limited to, any Code Enforcement Officers, Zoning Officer, Records Management Officer pursuant to Part 444 of NYCRR Title 19 on minimum standards for administration and enforcement. The Inspector shall have such other duties as provided by this Law and the subdivision regulations or as assigned by the Town Board.

§10.200. Building Permit Administrative Procedure

No person, firm or corporation shall commence with the erection, construction, alteration, enlargement, improvement, conversion or change to any building, structure, sign (or part thereof), or change the use or occupancy of any building, structure or land without first obtaining a separate building permit and other approvals as may be required from the Inspector for each such building, structure or use, except that a building permit may not be required for the performance of necessary repairs which do not involve material alteration of structural features, and/or extensions to plumbing, electrical or heating/ventilation systems, however, such work shall never the less be done in conformance with the New York State Uniform Fire Prevention and Building Code and any other applicable laws and regulations.

10.201. Application.

A. Application for a building permit shall be made by the owner or by his agent, architect, engineer or builder employed in connection with the proposed work.

B. Application for a building permit shall be made to the Inspector on forms prescribed by him/her at the office of the New Scotland Building Department. A signed, completed, application form, accompanied by a fee established by the Town Board and the following information shall constitute a complete application:

1. Duplicate copies of specifications, including a plot plan drawn to scale, showing location and size of all proposed new construction and all existing structures on the site, the nature and character of work to be performed and materials to be incorporated, distance from lot lines, walks, alleys and, where required by the Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential data. Plans and specifications, bearing the signature of the person responsible for the design and drawings, shall be required when deemed necessary by the Inspector.
2. A description of the land on which the proposed work is to be done.
3. A statement of the use or occupancy of all parts of the land and the proposed building or structure.
4. The valuation of the proposed work and of the existing buildings and

structures.

5. The signature of the applicant or agent.

6. The full name, address and phone number of the owner and of the applicant, and the full names and addresses of their responsible officers, if any of them are corporations, and the name and address of the owner's authorized agent, if any.

7. A brief description of the nature of the work.

8. Such other information as may reasonably be required by the Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, laws, rules and regulations.

10.202. Issuance of Permits. It shall be the duty of the Inspector to issue a building permit, provided the Inspector is satisfied that the structure, building, sign, parking area or premises, and the proposed use thereof, conform with all requirements of this law, and that all other reviews and actions, if any, called for in this Law have been complied with all necessary approvals, permits and variances required have been secured. All building permits shall be issued in duplicate and one (1) copy shall be kept conspicuously on the premises affected.

10.203. Duration of Permits.

A. A building permit issued pursuant to this section shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy, use or compliance (other

than a temporary certificate of occupancy, use or compliance), whichever occurs first. The permit may, upon written request, be renewed for two (2) successive twelve (12) month periods provided that:

1. The relevant information in the application is up to date; and

2. The renewal fee, as established by the Town Board, is paid; and

3. Should the permit have been revoked, the necessary surety, if required, has been provided to the Town of New Scotland.

B. Thirty-six (36) months from the date of original permit issuance, application for renewal shall be reviewed by the Planning Board prior to any action by the Inspector. The Planning Board shall determine whether said permit shall be renewed and may require such information, evidence or security as necessary to assure that the structure, or activity for which the permit was issued, will be completed upon permit renewal. Failure to receive such information, evidence or security will result in denial of building permit renewal and immediate removal of the construction, associated with the structure for which the permit was issued, completed prior to permit expiration.

10.204. Denial of Permits.

If the application, together with other documents filed therewith, describes work which does not conform to all of the requirements of the applicable building regulations, the Inspector

shall disapprove the same. Upon request of the applicant, the Inspector shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant. The applicant may appeal such a denial to the ZBA, in writing.

10.205. Stop Work. Whenever the Inspector has reasonable grounds to believe that the work on any building or structure is being prosecuted in violation of the provisions of the applicable building laws, laws, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, the Inspector shall notify the owner of the property or the owner's agent to suspend all work and suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to the applicant by certified mail at the address set forth in the application for construction of such building and structure.

10.206. Revocation of Permits.

A. The Inspector may revoke a building permit in the following instances:

1. Where there has been any false statement or misrepresentation as to a

material fact in the application or other documents on which the building permit was based.

2. Where the building permit was issued in error and should not have been issued in accordance with applicable law.

3. Where the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application.

4. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Inspector.

B. It shall be the duty of the person holding the building permit to surrender it and all copies thereof to the Inspector.

C. After the building permit has been revoked, the Inspector may, in his/her discretion, before issuing the new building permit, require the applicant to file sufficient surety, in the form of cash escrow, certified check, indemnity bond or other, at the discretion of the Planning Board conditioned for compliance with this Law and all building laws and laws then in force and in a sum sufficient to cover the cost of removing the structure if it does not so comply.

10.207. Construction Inspections.

A. With each building permit, the Inspector shall issue a schedule of required construction inspections.

B. Provisions shall be made

by the recipient of a building permit for approvals of work prior to enclosing or covering any portion thereof and upon completion of each state of construction including but not limited to building location, site preparation, excavation, foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detection systems, exiting features and energy requirements to determine compliance with applicable laws, rules, regulations, codes and laws and any other items relative to the individual approved application and or plans. It shall be the duty of the permit holder to notify the Inspector at least forth-eight (48) hours in advance of the need for the inspection. Failure to provide access to the work or timely notification will require removal of such completed work as necessary to observe the areas noted above.

C. The Inspector is authorized to make the following additional inspections:

1. Fire safety inspections in areas of public assembly as defined by the Codes, Rules and Regulations of New York State, at least once per year.

2. Inspections where a certificate of occupancy, use or compliance or certificate of compliance is required, prior to its issuance.

3. Fire safety inspections of all multiple dwellings and all non-residential occupancies at least once per thirty-six (36) month

period.

4. Inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with the New York State Uniform Code, Town Zoning Law or any other applicable federal, State County or municipal law.

5. Inspections deemed appropriate from time to time during and upon completion of work for which a building permit has been issued.

6. A person subject to inspection under this Article may be required by the Inspector to have such inspection performed at his or her expense and cost by a competent observer whose experience and training has been demonstrated to the satisfaction of the Inspector.

7. Inspections as required for the issuance and administration of a temporary certificate of occupancy, use or compliance.

D. If entrance to make an inspection is refused or cannot be obtained, the Town of New Scotland, after being notified by the Inspector of the situation, may apply to any court of competent jurisdiction for a warrant to make an inspection.

E. Notwithstanding any requirement of this Article to the contrary, no regular, periodic inspection of occupied dwelling units shall be required provided, however, that this shall not pose a limitation on inspections conducted at the invitation of the occupant, where there is cause to believe

The conditions of the premises threaten or present a hazard to public health, safety, welfare, or as required by New York State Town Law.

§10.300. Procedure for Issuance of Certificate of Occupancy, Use or Compliance

10.301. Applicability.

A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy, use or compliance has been issued by the Inspector.

B. No building hereafter erected, enlarged, extended or altered by construction which required the issuance of a building permit shall be occupied or used after the completion of the alteration or work unless a certificate of occupancy, use or compliance has been issued.

C. No change shall be made in the occupancy and/or use of an existing building unless a certificate of occupancy, use or compliance authorizing such change shall have been issued.

D. No special permit shall be considered in effect until a certificate of occupancy, use or compliance has been issued.

10.302. Application.

Written application from the owner, tenant or occupant for a certificate of occupancy, use or compliance shall be made with the Inspector and may consist of a drawing of the site to scale showing property dimensions, existing buildings, on-site water and sanitation facilities, leach field, a

statement as to the use and occupancy of all parts of the land and structures and any other information as may be designated by the Inspector as necessary to review the project for compliance with all applicable laws and regulations.

10.303. Action by the Inspector.

When, after final inspection, it is found that the construction work has been completed in accordance with the applicable laws, laws, rules or regulations and also in accordance with the application, the Inspector shall issue a certificate of occupancy, use or compliance. If it is found that the proposed work has not been completed, the Inspector shall not issue a certificate of occupancy, use or compliance and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

10.304. Temporary Certificates of Occupancy.

Upon request, the Inspector may issue a temporary certificate of occupancy, use or compliance for a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy, use or compliance shall remain effective for a period not exceeding three (3) months from its date of issuance. For good cause, the Inspector may allow a maximum of two (2) extensions for periods not

exceeding three (3) months.

10.305. Issuance of Certificates of Occupancy, Use or Compliance Upon Request of the Owner.

Upon written request from the owner, tenant or occupant, the Inspector, after inspection, shall issue an occupancy permit for an existing use legally existing at the time this Law is made effective, certifying the extent and kind of use and whether any such existing use conforms to the provisions of this Law. A fee in accordance with the town fee schedule will be applicable.

§10.400. Violation Defined

It shall be a violation for any person, firm or corporation to construct, alter, repair, move, equip, occupy or use any building, structure or portion thereof, or to use, divide, or subdivide any land in violation of this Law, the subdivision regulations or of any law or regulation made under authority conferred hereby, or to fail in any manner to comply with a notice, directive or order of the Inspector or other proper official, or to construct, alter, occupy or use any building, structure, land or portion thereof, in a manner not permitted by an approved building permit or occupancy permit.

10.401. Complaint of Violations.

Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Inspector, who shall properly record such complaint and immediately investigate the complaint, reporting thereon to the

Town Board, and/or Planning Board.

10.402. Procedure for Abatement of Violations. In instances where a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Law, the Subdivision Regulations, or of any Law or regulation made under authority conferred hereby, the Town Board, or, with their approval, the Inspector of other proper officials, in addition to other remedies, may institute any appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

A. Notice of Violation. Whenever it shall appear to the satisfaction of the Inspector that work or activity in any building or structure or part thereof or upon any land or the use of any land is being carried on in violation of any of the provisions of this law or of the Subdivision Law, the Inspector is hereby authorized to serve upon the owner of any such building, structure, or land or the architect, contractor or any other person in charge thereof, either as owner or agent, a notice in writing as hereinafter prescribed, which shall contain a description of the

building, premises or property in which said violations exist, specify the particular work on such building, structure, or land which is being carried on in violation of the provisions of this Law or the Subdivision Law, and which shall direct that the violation be removed within ten (10) days after such service of notice, and shall further direct that all work on said building, structure or land cease until such violation is removed.

B. Issuance of Notice. All notices of the violation of any of the provisions of this Law and all other notices directing anything to be done required by this Law and all other notices that may be required or authorized to be issued thereunder, including notice that any building, structure, premises, or any part thereof, are deemed unsafe or dangerous, shall be issued by the Inspector and shall have his name affixed thereto and may be served by any officer or employee of said Inspector or by any person authorized by said Inspector.

C. Service of Notice. All such notices and any notice or order issued by any court in any proceeding, instituted pursuant to this Law to restrain or remove any violation or to enforce compliance with any provision or requirement of this Law, may be served by delivering to and leaving a copy of the same with any person or persons violating, or who may be liable under any of the several provisions of this Law, or to whom the same may be addressed, and if such person or persons cannot be found after diligent search shall have

been made for them, then such notice or order may be served by posting the same in a conspicuous place upon the premises where such violation is alleged to have been placed or to exist, or to which such notice or order may refer, and mail a copy thereof enclosed in a sealed wrapper, addressed to said person or persons at their last known place of the residence, with the postage paid thereon and said postage and mailing a copy of said notice or order shall be equivalent to a personal service of said notice or order upon all parties for whom such service shall have been made.

D. Service Upon Owners Residing Out-of-State. If the person or persons or any of them to whom said notice or order is addressed do not reside in the State of New York and have no known place of business therein, the same may be served by delivering to, and leaving with, such person or persons, or either of them, a copy of said notice or order, or if said person or persons cannot be found within said state after diligent search, then by posting a copy of the same in a conspicuous place upon the premises where said violation is alleged to have been placed or exist, or to which such notice or order may refer and mailing a copy thereof, enclosed in a sealed wrapper addressed to said person or persons at their last known place of residence, with the postage paid thereon. Said posting and mailing a copy of said notice or order shall be equivalent to personal service of said notice or order upon all parties for whom such

search shall have been made.

E. Failure to Comply with Notice. Any person who shall fail to comply with a written notice from the Inspector, within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents who shall fail to comply with any lawful order, notice, directive, permit or certificate of the Inspector made thereunder shall be guilty of an offense punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00), or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.

F. Enforcement Through Justice Court. Whenever the Inspector or an authorized employee of the Building Department determines that a violation exists, the Inspector or any authorized

employee may issue, without further notice, to the person responsible for such violation, a summons or appearance ticket returnable in the Justice Court for the Town of New Scotland for the prosecution of said offense, or take such other enforcement procedures as may be authorized by law.

Article XI. Planning Board

§11.000. Purpose

The purpose of this Article is to establish the organization, authority and responsibilities of the Town of New Scotland Planning Board.

§11.100. Authority

The Town of New Scotland Planning Board is established pursuant §271 of New York State Town Law.

§11.200. Membership

A. The Town of New Scotland Planning Board shall consist of seven (7) members. One (1) member shall be designated each year by the Town Board at its January meeting to serve as Chair.

B. Upon temporary absence or disqualification of the Chair, members of the Planning Board will appoint a temporary Acting Chair to preside for up to three (3) consecutive meetings.

C. Upon resignation or disability of the Chair, involving along term absence to exceed three (3) consecutive meetings, the Town Board shall appoint an Acting Chair to preside over the Planning Board.

§11.300. Meetings

A. The Planning Board shall adopt and publicize a meeting schedule.

B. The regular January meeting shall be designated as the annual meeting of the Planning Board.

C. A special meeting may be called by the Chair or upon the request of four (4) other members, provided that forty-eight (48) hours notice is given each member, and provided also that, to the extent practicable, notice is given to the public by notifying the news media and by a conspicuous posting of notice at the Town Hall within a reasonable time prior to such special meeting.

D. Meeting shall be conducted according to Robert's Rules of Order and shall be presided over by the Chair.

E. Any application to be considered by the Planning Board must be filed with the Inspector not less than fourteen (14) days prior to the meeting at which it is to be considered. Failure to comply with this subsection will result in the application's being dropped from the meeting agenda. The Chair may in its discretion waive this requirement.

F. Seven (7) days prior to each regular meeting, the Chair shall prepare an agenda of items to be considered at the regular meeting. All pertinent papers and plans shall be distributed by mail or otherwise to each of the members.

§11.400. Voting

A. A quorum entitling the Planning Board to take

action shall be a majority of the entire membership of the Planning Board.

B. Each member present at a meeting shall be entitled to one (1) vote on each matter before the Planning Board.

C. Planning Board action may be taken only upon the affirmative vote of the majority of the entire membership.

D. Any member who has a personal interest in a matter pending before the Planning Board shall disclose that he has an interest and shall abstain from voting on the matter. A majority of the disinterested members will be sufficient for Planning Board action to be taken, provided a quorum exists.

§11.500. Powers and Duties

A. The Planning board shall perform those duties prescribed by this Law and statute including, but not limited to, approving, approving with conditions, or disapproving subdivision applications, making recommendations on amendments to, and administering and enforcing certain provisions of this Law, in accordance with its contents, including reviewing special permit and site plan applications.

B. The Planning Board shall prepare and update as needed a Comprehensive Land Use Plan as defined in §272-a of New York State Town Law and shall review and make recommendations on all investigations, reports and plans relating to the Planning Board and development of the Town, or affecting the Comprehensive Land Use Plan.

C. The Planning Board may adopt rules of procedure and statements of policy consistent with this Law and the contents of the Comprehensive Land Use Plan to assist in the performance of its functions.

D. The Planning Board may, from time to time, prepare and file with the Town Board, a report on the operation of this Law, including recommendations as to the enactment of amendments, supplements or changes.

§11.600. Hearing Procedure

A. At minimum, the Planning Board shall provide public notice of any public hearing by publishing a notice of such hearing in the official paper at least five (5) days prior to the date thereof.

B. The Chair shall preside at any public hearing conducted by the Planning Board. The proponent of the matter, which is the subject of the hearing shall make a statement to the Planning Board. Any witnesses who support the proponents position shall then be heard, followed by opponents. The members of the Planning Board may question any witness after their statement to the Planning Board. The Chair may, for the purpose of expediting lengthy meetings, limit the time in which persons appearing before the Planning Board may speak. The Planning Board may also accept written submissions of any interested party at a public hearing.

Article XII. Amendments

§12.000. Town Board May Amend

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this Law, after public notice and hearing.

§12.100. Review by Town Planning Board

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. If the Planning Board shall fail to file such a report within sixty (60) days, it shall be conclusively presumed that the Planning Board has approved the proposed amendment, supplement or change.

§12.200. Public Notice and Hearing

The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

12.201. Public Notice. By publishing a notice at least ten (10) days in advance of such hearing in at least one (1) newspaper of general circulation in New Scotland. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.

12.202. Personal Notice. (See General Municipal Law,

Section 239 L and M.)

12.203. By mailing a copy of such notice to every association of residents of the Town which shall have registered its name and address for this purpose with the Town Clerk.

12.204. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any State Park or Parkway shall be given to the regional State Park Commission having jurisdiction over such State Park or Parkway at least ten (10) days prior to the date of such public hearing.

12.205. Opportunity to be Heard at Hearing. At the public hearing, full opportunity to be heard shall be given to any citizen and all parties in interest.

Article XIII. Definitions

§13.000 Word Usage

For the purposes of this Law, certain terms and words shall be interpreted to have the following meanings:

A. Words used in the present tense include the future;

B. Words used in the plural include the singular;

C. The word "shall" is mandatory;

D. The word "may" is permissive;

E. The word "town" shall be the Town of New Scotland, New York;

F. The word "used" shall include arranged, designed,

constructed, altered, converted, rented, leased, or intended to be used;

G. The word "building" shall include the work "structure".

§13.100 Definitions

Certain words and terms used in this chapter are defined, for the purposes thereof, as follows:

13.101 Accessory Structure.

A structure, the use of which is incidental to that of the main building, and which is attached thereto, or is located on the same premises. Examples of accessory structures include storage sheds, private garages and screened trash disposal containment areas.

13.102 Accessory use.

A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building. In a multiple dwelling, such accessory uses may include, among others, the following: offices for the building management; dining rooms, banquet rooms, public kitchens, and ballrooms; recreation and play room; laundries for the use of tenants and occupants, and in connection with the management and operation of the multiple dwelling; maintenance and work shops, storage rooms for linen, bedding, furniture, supplies and tenants' equipment and effects; rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspaper, candy and cigar stands; and garages within the multiple dwelling or on the premises thereof used primarily for the storage of passenger-type motor

vehicles.

13.103 Agent of Owner.

(Applicant) Any person who can show written proof that he/she is acting for the property owner.

13.104. Agribusiness.

Activities related to agricultural products and by-products, other than those described in Article Thirteen, Section 13.134, of this Law, titled "Farming, Agriculture or Nursery", and:

1. Is conducted by a party on a parcel where the "raw product" is not produced or raised, or;

2. Where less than fifty (50) percent of the product being produced or processed, for sale or distribution, is obtained from lands owned or controlled by said party, or;

3. Is being conducted on land not owned or controlled by said party.

13.105 Agriculture and Forest Management Structure.

Any barn, stable, shed, silo, garage, permanent fruit or vegetable stand, observation tower or other structure directly and customarily associated with agriculture or forest management activities, but excluding lumber mills and lumber storage.

13.106 Alteration of a Structure or Building.

A change or rearrangement, physical enlargement, or the movement of a building from one location or position to another, excluding normal maintenance or repairs.

13.107 Auto Sales Area. An open area, other than a

street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

13.108 Automobile Service, Gasoline or Filling Station. A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and where minor automotive repairs may be made.

13.109 Auto (car) Wash. A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and may employ some hand labor. Also includes self service washing facilities.

13.110 Auto Wrecking. The dismantling, or disassembling, of used motor vehicles or the storage, sale or salvaging of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts. As used herein, the term "vehicle" shall mean passenger type automobile, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and other equipment.

13.111 Bed and Breakfast. A residential lodging facility in an owner occupied dwelling offering from one (1) to three (3) bedrooms without kitchen facilities, housing transient guests for a daily fee, for a period not to exceed fourteen (14) consecutive days. The

facility may serve breakfast.

13.112 Buffer. A portion of land, normally lying adjacent to a lot line, which is used to mitigate any negative impacts a land use or activity may have on neighboring land. Within a buffer, improvements, consisting of landscaping, fencing, earth mounding or other similar devices are typically installed and maintained.

13.113 Building. A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, or property.

13.114 Building Code. The current Uniform Fire Prevention and Building Code of the State of New York.

13.115 Building, Front Line of. The line of that fact of a building nearest the front line of a lot. This face shall include porches, carports, balconies and platforms, whether enclosed or unenclosed.

13.116 Building Height. The height in feet of a building determined from the average elevation of finished grade adjoining the exterior walls, to the highest level of a flat or mansard roof, or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads and other roof construction.

13.117 Building or Construction Business. A business or commercial enterprise involving the dispatching, temporary storage and normal maintenance of construction

and excavation equipment, and, including the office, warehousing and equipment storage areas of a contracting firm.

13.118 Building Supply Facility. A commercial business involving the retail or wholesale sales of lumber, construction materials, hardware, paint and similar materials in which a portion of the inventory is stored outside or in semi-enclosed structures. Limited lumber milling may be associated with such businesses under special use permit conditions.

13.119 Certificate of Occupancy, Use or Compliance. A document, signed by the Inspector stating that a structure, is in compliance with all provisions of this Law, and other applicable laws, and/or a use is in compliance with this Law and other applicable laws, and/or any proposed action complies with conditions for approval imposed by any Board of the Town of New Scotland.

13.120 Clinics.
See "Hospital".

13.121 Cluster Development or Average Density Development. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas, without exceeding the overall maximum density permitted by this Law.

13.122 Code Enforcement Official. The officer charged with enforcement of building, zoning or fire codes.

13.123 Comprehensive Land Use Plan. The long-range plan, drafted and maintained by the Planning Board intended to guide growth and development of the Town by presenting broad policy about housing, public utilities, community facilities, transportation and land use distribution within the Town of New Scotland.

13.134 Conservation Easement. A legal agreement between a landowner and qualified land trust or government organization permanently granting a property right stipulating that the described land will remain in its natural state and precluding future or additional development.

13.125 Day Care. Daytime care or instruction of not more than six (6) children away from their own homes for more than three (3), but less than twenty-four (24) hours per day by an individual, association, corporation, institution or agency, whether or not for compensation or regard.

13.126 Day Care Center. A center for children as defined in 18 NYCRR 418.1(b)(1).

13.127 Double -Frontage Lot. A lot with rear and front lot lines which abut existing or proposed streets or right-of-ways.

13.128 Drive-In Establishment. A use, which by design of facilities or procedures, encourages or permits customers to receive service and obtain products including ready-made food items and banking services, while remaining in their vehicle.

13.129 Dwelling (Residence). Building

occupied exclusively for residential uses, including modular, panelized or sectional housing, but not including inns, motels, hotels, boarding houses and bed and breakfasts.

13.130 Dwelling Unit. One (1) or more rooms, including a kitchen or kitchenette, and sanitary facilities in a dwelling structure, designed and arranged as a unit for occupancy by not more than one (1) family for living purposes.

A. Dwelling, Single Family.

A structure designated for or occupied exclusively by one (1) family and containing not more than one (1) dwelling unit. This term shall not include mobile homes as defined herein, but shall include any other manufactured housing meeting these criteria.

B. Dwelling, Two Family.

A building containing two (2) dwelling units, such building being designed for residential use and occupancy by two (2) families living independently of each other, each unit being separated by vertical walls and/or horizontal floors.

C. Dwelling, Multiple.

A building with three (3) or more dwelling units designed for occupancy by three or more families, with the number of families in residence not exceeding the number of dwelling units provided, including Senior Citizen Housing, Life Care Facilities, Community Residences, buildings with one (1) or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient

paying guests or tenants.

D. Dwelling, 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 designed to be used as a year round detached residence; and which is a complete, independent unit to be occupied as permanent living quarters, containing sleeping accommodations, a flush toilet, a tub/shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems, whether placed on a foundation or not. Any other housing including modular, panelized or sectional homes are not included in this definition.

13.131 Educational Uses.

Facilities and accessory grounds and structures that provide a curriculum of nursery, elementary, secondary academic and/or post secondary instruction including public or private nursery schools, kindergartens, elementary schools, high schools or trade schools or other institution engaged primarily in the activity of providing organized education.

13.132 Engineer.

An individual duly qualified and licensed to perform engineering work in the State of New York. The Term Town Designated Engineer shall refer to an engineer retained by the Town.

13.133 Essential Services.

The erection, construction, alteration and/or maintenance by public utilities or town or other governmental agencies of underground or overhead gas, electrical or water transmission or

distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or town or other governmental agencies or for the public health or safety or general welfare.

13.134 Family. A household constituting a single housekeeping unit occupied by one or more persons.

13.135 Farming, Agriculture or Nursery. A parcel of land of at least five (5) acres, used for cultivation, pasture or other customary agricultural or nursery purpose(s), including the display and sale of products raised on land owned or controlled by said party, providing that fifty (50) percent or more of the products sold by said party are produced by said party, and the raising of stock and poultry except hog and pig.

13.136 Farming Activity, Personal. Use by the occupant of a parcel of land of less than five (5) acres for farming, agriculture and/or nursery activities. The temporary display and sale of products grown on site shall be allowed only by special use permit. The raising of livestock and poultry for sale or slaughter on said parcel shall be prohibited.

13.137 Floor Area. The floor area within surrounding walls of a building, or portion

thereof.

13.138 Floor Area Ratio. The ratio of the sum of the floor area of all stories of a building or group of buildings (excluding basements) on one (1) lot to the total lot area.

13.139 Floor Management. "The application of business methods and technical forestry principles to the operation of a forest property" (Society of American Foresters, 1958). Forest management may include timber production, harvesting (sustaining yields), insect and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activity. Reclamation, sedimentation and erosion control, watershed management, wildlife management and fire prevention are necessary associated activities for qualification as a forest management use under this term.

13.140 Funeral Home. A building, or part thereof, used for human funeral services. Such a building may contain space and facilities for: a) embalming and performance of other services used in preparation of the dead for burial excluding cremation; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted.

13.141 Garage, Public. A building other than a

private garage, one (1) or more stories in height, used for housing, storage or repair of trucks, trailers or automobiles, whether or not accessory or incidental to another use.

13.142 Gross Leasable Area. The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement areas and roofed porches and roofed terraces not devoted to commercial use. All dimensions shall be measured between exterior faces of walls.

13.143 Habitable Space. Space occupied by one (1) or more persons for living, sleeping, eating or cooking. Restaurants for employees and occupants, kitchens serving them, and kitchenettes shall not be deemed to be habitable space.

13.144 Historic Buildings. Buildings which have been specifically designated as historically significant by the State or local governing body, or listed in "The National Register of Historic Places" or which have been determined to be eligible for listing on the "National Register" by the Secretary of the Interior.

13.145 Home Occupation. Any activity customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character of the exterior thereof, and does not exceed the lesser of occupancy of less than twenty-five percent (25%)

of the habitable space or five hundred (500) square feet of the dwelling and does not involve the manufacturing, production or display of articles or commodities for sale on the premises, nor the rendering of any personal service except those normally performed on a consultation basis by clergymen, doctors, lawyers and similar professions.

13.146 Homeowners Association. A contract agreed to by owners of homes and in any area that provides regulations for the operation and land maintenance of commonly owned facilities and open space, in accordance with New York State Law.

13.147 Hospital. An institution providing health services primarily for inpatients and medical or surgical care of the sick or injured, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

13.148 Hotel or Inn. A facility offering transient lodging accommodations for a daily rate to the general public in which no provision is made for cooking in any individual room or suite. A bed and breakfast containing four (4) or more rooms shall be included under this definition. A hotel or inn may provide additional services, such as restaurants, meeting rooms, and recreation facilities.

13.149 Household Pets. Animals used by the residents of the premises only. Household pets shall not be construed to include

farm animals such as horses, sheep, pigs, hogs, chicken and geese.

13.150 Industry. The manufacture, predominantly from previously prepared materials, of finished products or parts including processing, fabrication, assembly, packaging, incidental storage, sales and distribution of such products, including basic industrial.

13.151 Junk. Manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled, including used paper, scrap metals and their alloys, rags, used cloth, used rubber, used rope, used bottles, or old used machinery, used tools, appliances, fixtures, utensils, used boxes or crates, used pipe or pipe fittings, used tires, etc.

13.152 Kennel. An establishment to house dogs, cats or other household pets more than six (6) months of age and/or where grooming, breeding, boarding, training or selling of animals is conducted as a business.

13.153 Large Scale Business Development. A large scale business or industrial development is a tract of land of not less than five (5) acres for nonresidential development, and which is planned for development as units under single ownership or control and which includes two (2) or more nonresidential principal buildings.

13.154 Lot (Building Lot). A piece or parcel of land

occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Law, and having not less than fifty (50) foot frontage on a public highway, road or street.

A. Lot, Corner. A lot butting two (2) or more streets, roads, or highways at their intersection or upon two (2) parts of the same street, road or highway, such streets, roads or highways, or parts of the same street, road, or highway forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lot lines is the "corner".

B. Lot, Depth. The mean horizontal distance between the front and rear lot lines.

C. Lot Lines. The property lines bounding the lot.

1. Lot Line, Front. The line separating the lot from a street, road, highway or right-of-way.

2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.

3. Lot Line, Side. Any lot line other than a front or rear lot line.

D. Lot Width. The width of the lot at the building line measured at right angles to its depth.

E. Lot Area. The

computed area contained within the lot lines.

F. Lot Coverage Ratio.

The ratio of the area of a lot covered by buildings or structures, parking and all other paved surfaces to the total lot area.

G. Lot of Record.

A lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

E. Lot, Industrial.

Lot or lots created, in single or separate ownership, by the subdivision of a conforming "Industrial" zoned lot whereby all minimum lot area and dimension requirements for the "Industrial" district are complied with, and the lot is occupied or intended to be occupied by a principal building, or group of buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, with such open space as may be required by this Law. These lots are relieved of the required fifty feet (50) of frontage on a public street or highway. A fifty foot (50) legal access to a public street or highway, by means of easement, right-of-way or other means, shall be required to be shown on the subdivision plat application submitted for approval.

13.155 Mobile Home Lot. A parcel of land within a mobile home park for the placement of a single mobile home for the exclusive use of its occupants.

13.156 Mobile Home Park. (Trailer Court) A

contiguous parcel of land plotted with mobile home lots which are to be rented or leased, but not sold. The management and maintenance of a mobile home park shall be deemed to be the responsibility of a single owner or operator, with improved lots and/or services being available under a leasing arrangement.

13.157 Motel. A building or group of buildings, whether attached or detached, containing for hire individual living and sleeping accommodations each of which is considered a unit, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term motel includes, but is not limited to, every type of similar establishment known as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

13.158 Municipal Buildings and Facilities. Facilities owned and/or operated by the Town of New Scotland for the conduct of the Town's business including, but not limited to, municipal office buildings, schools, police and fire stations, public works garages and facilities, public safety facilities, solid waste disposal facilities, sewerage systems, sewer facilities and similar uses.

13.159 Non-Conforming Lot. A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning law but that fails in terms of total area or dimensions to

conform to the present requirements of the zoning district.

13.160 Non-Conforming Structure or Building. A structure or building, the size, dimensions, material construction or location of which was lawful prior to the adoption, revision, or amendment to the zoning law but that fails to conform to the present requirements of the zoning district.

13.161 Non-Conforming Use. A use or activity that was lawful prior to the adoption, revision or amendment of the zoning law but that fails to conform to the present use requirements of the zoning district in which it is located.

13.162 Nursing or Convalescent Home. A State licensed residential care facility in which nursing care and medical services are performed under the general direction of persons licensed to practice in the State of New York, for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require on a twenty-four (24) hour basis, nursing care and related medical services. This definition shall include skilled nursing facilities, intermediate care facilities and nursing facilities.

13.163 Office Building. A building that has been planned developed and operated as a facility to accommodate one (1) or more separate offices as its primary use, where other uses are secondary or accessory.

13.164 Office Use. Any use of a primarily clerical or

professional nature, such as, but not limited to, insurance, government, real estate, legal miscellaneous business or medical services.

13.165 Off-Site Sewer or Water. Those facilities provided for common usage in a private or public entity, and which shall meet the requirements standards of the Albany County Department of Health.

13.166 Open Space Ratio. The ratio of the total area of a parcel maintained in lawns, gardens, planters, or other natural vegetation to the total lot area.

13.167 Parking Area. An open area, other than a street, road or highway or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

13.168 Personal Service Outlet. An outlet where personal services are offered for profit, such as barber-shops, shoeshine-shops and beauty parlors.

13.169 Planned Unit Development. A tract of land which is developed as a unit with a grouping of residential, commercial or industrial buildings, together with their accessory buildings and all appurtenant roadways, parking areas loading areas, open spaces and service buildings and facilities.

13.170 Preserve. A parcel of land set aside for the purpose of preserving its natural character for ecological and/or educational purposes. Includes game refuges,

wildlife centers and forest preserves.

13.171 Private Club. A facility operated by a corporation, association or group of people for the social, educational or recreational intent of the dues paying members and their guests, but not primarily for profit nor to render a service which customarily is carried on as a business.

13.172 Principal Building. A structure located on a parcel of land housing at least the principal use allowed for the parcel. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building for the purpose of computing setback and density requirements.

13.173 Principal Use. Any use allowed as-of-right or by special use permit within a particular zoning district, and not specifically designated as an accessory use.

13.174 Qualified Geologist/Hydrogeologist. A qualified Geologist/ Hydrogeologist (including geologists, hydrologists, geophysicists or soil scientists) shall be defined as:

A. 1. Graduated from an accredited college with a degree in Hydrogeology, Geohydrology or Soil Science; or

2. Graduated from an accredited college with a degree in Geology including and / or supplemented by a minimum of three (3) credit hours in hydrogeology or geohydrology; or

3. Graduated from an accredited college with a degree in one of the natural physical sciences including and / or supplemented by thirty (30) credit hours in geology of which three (3) credit hours must be in hydrology and/or geohydrology; or

4. Graduated from an accredited college with a degree in one of the natural physical sciences including and/or supplemented by thirty (30) credit hours in pedology or soil work and a minimum of six (6) credit hours in geology (course work in paleontology or mining will not be considered acceptable);

B. Four years of appropriate professional experience.

13.175 Recharge Area. An area composed of permeable materials which allows precipitation and surface water to filter into groundwater and replenish ground water in aquifers, or to drain into, and replenish water storage in reservoirs located within the Town.

13.176 Recreation. A pastime, diversion, exercise, or other resource affording relaxation and enjoyment.

13.177 Religious Institution. An institution that people regularly attend to participate in or hold services, meetings and other activities. The term shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

13.178 Research, Experimental or Testing Laboratory. A building or group of buildings where facilities for scientific research, investigations, testing, or experimentation are located. Facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory are specifically excluded.

13.179 Restaurant. Any establishment which serves prepared meals for consumption on the premises or for take-out. Does not include drive-in restaurants.

13.180 Retail Business. A business engaged in the sale of commodities to walk-in consumers for direct consumption and not for resale; including apparel stores, pharmacies, book stores and other retail outlets.

13.181 Rooming House. A building containing a single dwelling unit and rooms for the rooming and/or boarding of at least two (2) persons, but not more than five (5) persons, by pre-arrangement for definite periods of not less than one (1) week.

13.182 Self Service Storage Facility. A building consisting of individual, small self contained units that are leased or owned for the storage of business and household goods or contractor supplies.

13.183 Setback, Front. The required minimum distance between the front line of a building and the related front lot line. (See Building, Front Line of and Lot Line, Front.)

13.184 Setback, Side. The required minimum distance

between a side lot line and the closest side of a building. Building side shall be measured from any bay windows, covered porches, whether enclosed or unenclosed, or any projections thereof.

13.185 Setback, Rear. The required minimum distance between a rear lot line and the rear of a building. Building rear line shall be measured from any bay windows, covered porches, whether enclosed or unenclosed, or any projections thereof.

13.186 Sign. Any device used for conveying information or advertisement which is displayed for public view, and consists of letters or symbols which may be inscribed or mounted on wood, metal, plastic or other materials, designed to attract the attention of persons not on the premises.

13.187 Special Use. A use which because of its unique characteristics requires individual consideration in each case by the Planning Board before it may be permitted in a district.

13.188 Soil Mining. Commercial excavating for the purpose of removal of gravel, quarrying and any subsoil or topsoil removal.

13.189 Stable, Public. The building on which horses are kept for commercial use including boarding, hire and sale.

13.190 Stable, Private. An accessory building in which horses are kept for private use and not for remuneration, hire, or sale. For lots under five (5) acres, the maximum number of horses that can

be kept for private use is three (3). For lots over (five) acres, one (1) additional horse may be kept for each additional two (2) acres of land.

13.191 Story. That portion of a building, included between the surface of a floor and the surface of the floor above, it, or if there is no floor above it, then the place between the floor and the ceiling above it.

13.192 Street. Any public way used as a means for vehicular and pedestrian circulation, whether designed as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, cul-de-sac, place or otherwise designated. Classes of streets are as follows:

A. Primary Streets (Arterial Street) are streets which are used primarily for through traffic with limited access requirements.

B. Secondary Streets (Collector Street) provide routes which connect Local streets (Minor streets) to community facilities, businesses, and commercial districts and to the Primary street system. Secondary streets include principal streets of residential developments.

C. Local Streets. (Minor Street) are streets which are used primarily for access to abutting residential, agricultural and forest management properties. Local streets include cul-de-sacs, marginal access streets, and streets used for circulation within residential developments

which do not provide for through traffic circulation.

D. Marginal Access Streets are forms of Local streets, generally parallel with and adjacent to Primary or Secondary streets, providing; access to abutting properties, protection against through traffic and control of the number of intersections with Primary and Secondary streets.

13.193 Street, Center Line. The line corresponding to the mid-point of the surfaced portion of any street.

13.194 Street, Public. A street dedicated to public use.

13.195 Structure. Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, radio and TV towers, sheds, signs and carports.

13.196 Substantial Improvement or Rehabilitation. Any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred.

13.197 Supermarket. A retail business contained on one (1) floor devoted to sale of food and related household items.

13.198 Tavern. An

establishment devoted to the primary use of selling alcoholic beverages for consumption on the premises; may serve food as an incidental use. Bar, grill, saloon, pub, or similar establishment shall be considered a tavern.

13.199 Tower. A structure, including satellite dishes, situated on a nonresidential site that is intended for transmitting or receiving television, radio, microwave, cable, broadcasting, cellular, personal communications and/or telephone communications equipment.

13.200 Usable Open Space. Required open space which shall be entirely undeveloped, except for planting, landscaping and recreational equipment, and shall be available for the sole enjoyment of the public and shall not include any side yards, driveways and accessways.

13.201 Variance Area. Permission by the ZBA for the use of land in a manner which is not allowed by the dimensional or physical requirements of this Law.

13.202 Variance, Use. Permission by the ZBA for the use of land for a purpose which is otherwise not allowed or is prohibited by this Law.

13.203 Veterinary Facility. (Animal Hospital) A structure for the health care and treatment of animals, not including kennels.

Article XIV. Fees

§14.000. Fee Requirements

Fees, as established by the Town Board by resolution,

may be charged for processing of applications and permits issued under this Local Law.

Article XV. Date

§15.000. Effective Date

This Law shall become effective immediately upon filing it with the Secretary of State.