

PUBLIC NOTICE

PLEASE take notice that the following ORDINANCE was duly adopted

At a regular meeting of the Town Board of the Town of New Scotland, Albany County, New York, held at the Town Hall, New Scotland, New York, on the 1st day of March, 1972.

Present: William McIntosh, Supervisor; Donald Chase, Town Justice; Harold Schultz, Town Justice; Wyman Osterhout, Councilman; Robert Patterson, Councilman

The following Ordinance was introduced by Justice Harold Schultz who moved its adoption, and the same was seconded by Councilman Robert Patterson

ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF NEW SCOTLAND

WHEREAS, a public hearing was duly held on the 16th day of February, 1972, and all other matters and things required to be done by the Town Law and the State of New York and the Zoning Ordinance of the Town of New Scotland in order that the Town Board may avail itself of the powers conferred by said laws, having been complied with:

Now, therefore, be it

RESOLVED and ORDAINED that the Zoning Ordinance of the Town of New Scotland, adopted on the 7th day of July, 1961, and the Zoning Map of the Town of New Scotland, being a part of said Ordinance, be, and the same hereby are, amended as follows:

1. To change from District RU-1, Rural District - Low Density, to District R-1, One-Family Residence District - Medium Density, an area along Koontz Road more particularly described as follows:

All that area lying on both sides of Koontz Road to a depth of two hundred (200) feet as measured perpendicularly from the adjacent side line of said Road

from the intersection of said Koontz Road with the Altamont-Voorheesville Road, Route 156, to the intersection of said Koontz Road with the centerline of Tygart Road and the centerline extended.

FURTHER RESOLVED and ORDAINED that the Town Clerk be, and she hereby is, directed to publish the foregoing amendment in the Altamont Enterprise published in the Village of Altamont, New York, and post a copy of the same on the signboard maintained in the Town Clerk's Office and this amendment shall become effective ten (10) days after such publication and posting. That upon the same becoming effective, said Town Clerk shall change the Zoning Map on file in her office in accordance with this amendment.

The foregoing Amendment was duly adopted by the following vote

Ayes — Five (5). No — None (0).

STATE OF NEW YORK
COUNTY OF ALBANY

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The foregoing Amendment was duly adopted by the following vote

Ayes — Five (5). No — None (0).

..... Howard F. Ogsbury

of the Town of Guilderland, being duly sworn, says that he is one of the publishers of the ALTAMONT ENTERPRISE and ALBANY COUNTY POST, a weekly newspaper printed and published in the Village of Altamont, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said ALTAMONT ENTERPRISE and ALBANY COUNTY POST .. once .. each .. week ..

... for .. one .. week .. consecutively, commencing on the .. 10th .. day of .. March .. 1972

..... Howard F. Ogsbury

..... Robert P. Wise

Notary Public, Albany County

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4. Title and Subtitle Proposed Zoning Ordinance for the Town of New Scotland				5. Report Date December, 1972	
7. Author(s) Hans Klunder Associates, Hanover, New Hampshire				8. Performing Organization Rept. No.	
9. Performing Organization Name and Address Town of New Scotland Planning Board Town Offices New Scotland, New York 12186				10. Project/Task/Work Unit No. N.Y. P-246	
				11. Contract/Grant No. State of New York C-52980	
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				14.	
15. Supplementary Notes This report was funded in part through a 701 project grant under the Housing Act of 1954.					
16. Abstracts The Proposed Zoning Ordinance for the Town of New Scotland constitutes a legal tool to directly control development within the Town. Certain districts were established in this ordinance specifically designating various types of land use and land use densities. These categories include residential-forestry, residential-agricultural, low density residential, hamlet one, industrial, commercial, neighborhood commercial. Another portion of the New Scotland ordinance discusses the general provisions which apply to the land use districts, incorporating such factors as parking, off-street loading, yard and height regulations, nonconforming uses and buildings, signs, and home occupations. In addition, special regulations concerning site plan review, planned unit development and cluster development are reviewed in Article V. The latter two terms provide for a higher density of development through a carefully designed arrangement of multi-family units in clusters, allowing significant amounts of land within the development to be retained in open space use. The remainder of the ordinance consists of a discussion of special uses, administrative organization and responsibilities, and definitions of the various terms utilized within the ordinance.					
17. Key Words and Document Analysis. 17a. Descriptors					
Land Use Regulatory Tool Zoning Districts General Provisions Special Uses			Special Regulations Board of Appeals Building Inspector Planning Board		
17b. Identifiers/Open-Ended Terms					
17c. COSATI Field/Group					
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PROPOSED ZONING ORDINANCE
FOR THE
TOWN OF NEW SCOTLAND

Revised

December, 1972

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PREAMBLE

An ordinance 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 Board of Zoning Appeals and setting forth the duties and functions of said Board; and providing for the administration and enforcement of this Ordinance and penalties for violation thereof in accordance with the Consolidated Laws of the State of New York.

ARTICLE I TITLE AND PURPOSE

Section 1.100 Short Title

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

Section 1.200 General Intent

The intent of this Ordinance is to establish a precise and detailed plan for the use of land in the Town of New Scotland based on the Development Plan otherwise known as a comprehensive master plan as stated in the Consolidated Laws of the State of New York for the Town of New Scotland, as they may be adopted and, from time to time, amended...and enacted in order to promote and to protect the public health, safety, morals, comfort, convenience, and the general welfare of the people.

Section 1.300 Purposes

This Ordinance is hereby adopted to provide for the Town of New Scotland all the protection authorized by the Consolidated Laws of the State of New York, and amendments thereof and in accordance with a comprehensive plan which is designed:

1.301 To promote the health, safety, morals, and the general welfare of the community.

1.302 To lessen congestion in streets, roads, and highways.

1.303 To provide adequate light and air.

1.304 To secure safety from fire, flood, panic, and other dangers.

1.305 To prevent the overcrowding of land,

1.306 To avoid undue concentration of population.

1.307 To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

1.308 With reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of property and encouraging the most appropriate use of land in the Town.

ARTICLE II ESTABLISHMENT AND DESIGNATION OF DISTRICT

Section 2.100 Zoning Map and Districts

The zoning map officially entitled "Town of New Scotland Zoning Map" is hereby adopted as part of this ordinance. 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
"H-1"	Hamlet One
"LDR"	Low Density Residential
"NC"	Neighborhood Commercial
"Com"	Commercial
"Ind"	Industrial

Section 2.200 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 in the town.

Section 2.300 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:

2.301 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.

2.302 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.

2.303 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.

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

2.305 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.

2.306 In all cases where a 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 Ordinance for the less restricted district shall apply to the remainder of said lot up to a distance of not more than 30 feet. For the 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.

Section 2.400 Lots

Lots which abut on more than one street shall provide the required frontage along every street.

All structures, whether attached to the principal structure or not, and, whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side, or rear yard.

In any district, notwithstanding limitations imposed by other provisions of this ordinance a single lot at the effective date of adoption of this ordinance may be built upon.

Section 2.500 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.

No building shall hereafter be erected or altered:

- To exceed the height,
- To accommodate or house a greater number of families,

To occupy a greater percentage of lot area, or
To have narrower or smaller rear yards, front yards, side yards, or inner
or outer courts than is specified herein for the district in which such building
is located.

No part of a yard or other open space about any building required for the purpose
of complying with the provisions of this ordinance shall be included as a part of a yard
or other open space similarly required for another building.

2.501 "R-F" Residential-Forestry

The forestry area contains soils, slopes, and farms that on the whole are not as desirable for continued agricultural use, that have already discontinued agricultural production, or that never were in agricultural use. In addition, the forestry area usually contains less desirable soils for urban development than the rural residential and medium density areas. The primary 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 three acres per house are constructed or located, outdoor recreational activities, and other very low density and intensity uses which are desirable for rural areas. The primary purpose of this district is to prevent destructive development of land, to retain areas for non-intensive uses, to prevent intensive development where it would be a burden to the town and to retain open spaces.

<u>Permitted Uses</u>	<u>Special Uses</u>	<u>Minimum Lot Size</u>		<u>Minimum Area Per Family in Acres (Net Density)</u>	<u>Minimum Yard Dimensions in Feet</u>			
		<u>Area in Acres</u>	<u>Width in Feet</u>		<u>Each Side</u>	<u>Yard</u>	<u>Two Side Yards</u>	<u>Rear</u>
<ol style="list-style-type: none"> 1. Forestry 2. Agriculture 3. Single-family dwelling 4. Public and non-profit outdoor recreational facilities 5. Nurseries, greenhouses 6. Accessory uses 7. Essential services 8. Home occupations 	<ol style="list-style-type: none"> 1. Two-family dwelling 2. Removal of fill, gravel, stone, or loam 3. Temporary sawmill 4. Cemeteries 5. Water recreation and water storage other than for fire protection or agricultural purposes 6. Summer camps and retreats 7. Churches 8. Public and non-profit recreational buildings 9. Essential service buildings 	3	200	1.5	50	25	50	50

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.

2.502 "R-A" Residential-Agricultural

The Residential-Agricultural district generally has soils and slopes with suitability for development. For reasons of access, soils, slopes, and 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 wanting to live in a rural atmosphere and without interfering with prime agricultural areas. The continuation of forestry and agricultural activities and low intensity uses are permitted. Density may be increased if public water or sewer is provided.

<u>Permitted Uses</u>	<u>Special Uses</u>	<u>Class</u>	<u>Minimum Area</u>	<u>Lot Size</u>	<u>Minimum Area</u>	<u>Minimum Yard Dimensions</u>			
			<u>in</u>	<u>Width</u>	<u>Per Family</u>	<u>Each Side Yard</u>			
			<u>Sq. Ft.</u>	<u>in</u>	<u>in Acres</u>	<u>Front</u>	<u>One Side</u>	<u>Two Side</u>	<u>Rear</u>
				<u>Feet</u>	<u>(Net Density)</u>		<u>Yard</u>	<u>Yards</u>	
1. Single-family dwelling	1. Multi-family dwelling	1	20,000	100	.50	40	25	50	30
2. Forestry	2. Mobile home park	2	30,000	130	.75	40	25	50	30
3. Agriculture	3. Water recreation and storage	3	40,000	140	1	40	25	50	30
4. Accessory uses	4. Churches								
5. Essential services	5. Public and semi-public uses compatible with rural residential use								
6. Non-commercial public and private recreational facilities	6. Essential service buildings								
7. Farms and nurseries, including display and sale of products raised in town, except hog, pig and fur-bearing animals	7. Private and community amusement								
8. Home occupations	8. Private airport								
<u>Type of Utility:</u>	Class 1 - <u>Off-site water and sewer</u> Class 2 - <u>Either off-site water or sewer</u> Class 3 - <u>On-lot water and sewage disposal</u>								

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.

2.503 "LDR" Low Density Residential

The low 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 a high percentage of the village population growth where they can be provided with adequate facilities and utilities at densities attractive to development, leaving prime agricultural areas free of scattered development or subdivisions which would destroy agriculture.

<u>Permitted Uses</u>	<u>Special Uses</u>	<u>Class</u>	<u>Minimum</u>	<u>Lot Size</u>	<u>Minimum Area</u>	<u>Minimum Yard Dimensions in Feet</u>			
			<u>Area</u> in	<u>Width</u> in	<u>Per Family</u> <u>in Sq. Ft.</u>	<u>Each Side Yard</u>			
						Front Yard	One Side Yard	Two Side Yards	Rear Yard
			Sq. Ft.	Feet	(Net Density)				
1. Single-family dwelling	1. Hospitals and clinics	1	20,000	100	15,000	40	20	40	35
2. Accessory uses	2. Nursing and convalescent homes	2	25,000	120	15,000	40	20	40	35
3. Public recreational facilities	3. Multi-family residential (more than 2)	3	30,000	130	15,000	40	20	40	35
4. Essential services	4. Essential service buildings								
5. Two-family dwellings									
6. Home occupations									

Plus 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 of such a plan, from a line 25 feet from and parallel with the center line of the travelled way.

Type of Utility: Class 1 - Off-site water and sewer
 Class 2 - Either off-site water or sewer
 Class 3 - On-lot water and sewage disposal

2.504 "H-1" Hamlet One

Hamlet One is for residential purposes and further provides, by special exception, for neighborhood commercial facilities to serve the hamlet in which they are located and the immediately surrounding area.

Permitted Uses	Special Uses	Class	Minimum Lot Size		Minimum Area per Family (Net Density) Sq. Ft.	Minimum Yard Dim. in Feet			
			Area in Sq. Ft.	Width in Feet		Each Side Yard		Front	Yard
1. Single-family dwelling	1. Multi-family - more than 2	1	10,000	100	7,500	30	15	50	30
2. Essential services	2. Nursing and convalescent home	2	20,000	100	10,000	30	15	50	30
3. Accessory uses	3. Non-profit recreational area	3	20,000	100	10,000	30	15	50	30
4. Two-family dwelling	4. Hospital or clinic								
5. Home occupations	5. Water recreation and water storage								
	6. Church								
	7. Public building								
	8. Essential service building								
	9. Neighborhood commercial facility								
	10. Public or private school								
	11. Semi-public uses								

Type of Utility: Class 1 - Public water and sewer
 Class 2 - Either public water or sewer
 Class 3 - On-lot water and sewage disposal

2.505 "Ind" Industrial

This area provides for the establishment of industrial activities. This area has good access and water and sewer services, or is where they could be readily available. A variety of types of manufacturing and offices are permitted, provided they are in keeping with the goals of the community.

		<u>Minimum Lot Size</u>		<u>Minimum Yard Dimensions in Feet</u>		
		Area in Sq. Ft.	Width in Ft.	Front	Each Side Yard	Rear
<u>Permitted Uses</u>	<u>Special Uses</u>					
1. Any manufacture, compounding, processing, packing, treatment or warehousing of goods and products, provided the use meets standards of the State of New York	1. Commercial uses serving the industrial area	75,000	200	40	25	50
2. Research and testing laboratories	2. Essential service buildings					
3. Offices	3. Industrial parks					
4. Public facilities						
5. Essential services						
6. Accessory uses						
7. Warehousing and trucking terminals						
8. Wholesale businesses						

2.506 "Com" Commercial

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.

	<u>Minimum Lot Size</u>		<u>Minimum Yard Dimensions</u>		
	<u>Area in Sq. Ft.</u>	<u>Width in Feet</u>	<u>in Feet</u>		
			<u>Front</u>	<u>Side</u>	<u>Rear</u>
	10,000	100	50	15	50
<u>Permitted Uses</u>	<u>Special Uses</u>				
1. Office, private or public	1. Churches				
2. Retail business	2. Public buildings				
3. Personal and professional services	3. Multi-family dwellings - more than two				
4. Banks	4. Essential service buildings				
5. Eating and drinking establishments	5. Automobile service stations or filling stations				
6. Motels and hotels	6. Auto sales and service				
7. Theaters	7. Shopping facilities consisting of more than one store				
8. Clinics					
9. Commercial recreation					
10. Accessory uses					
11. Essential services					
12. Home occupations					

2.507 "NC" Neighborhood Commercial

This is a district in the center of the community and is designed to continue the more rural town character, providing services and shopping opportunities to the residents of the community and to visitors. It is a district that is designed to promote the pleasant residential characteristics and shopping environment of a neighborhood.

<u>Permitted Uses</u>	<u>Special Uses</u>	<u>Yard Dimensions</u>		<u>Maximum Building Area for Each Store</u>	
		<u>Minimum Lot Size</u>	<u>Lot Width</u>		<u>Minimum Depth</u>
		20,000 sq. ft.	100 ft.	100 ft.	2,000 sq. ft.
<ol style="list-style-type: none"> 1. Retail store 2. Business office 3. Personal service 4. Religious institution 5. Community center 6. Public outdoor recreation 7. Private club 8. Mortuary, funeral home 9. Enclosed accessory use 10. Parking 	<ol style="list-style-type: none"> 1. Other neighborhood retail business uses which are of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses. 2. Automobile service station or filling station, excluding major repairs 				

ARTICLE III GENERAL PROVISIONS

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

Section 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.

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

<u>Use</u>	<u>Parking Spaces Required</u>
Lodging house	1 for each lodging unit
Residential	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 4 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 businesses, and personal service establishments	1 for each 180 sq. ft. of gross leasable area
Eating and drinking establishments	1 for every 3 seats
Industrial	1 for each 1.2 employees, based on the highest expected average employee occupancy
Funeral homes	1 for each 75 sq. ft. of floor space in slumber rooms, parlors, and individual service rooms

Section 3.200 Off-Street Loading

Off-street loading which is 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, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space.

Section 3.300 Yard and Height Regulations

3.301 Coverage

In all districts, structures may not cover more than 30 percent of the lot. In planned development projects, although individual lots may exceed this requirement, the overall project may not.

3.302 Height Regulations

Except for farming purposes, in all districts structures shall not exceed a height of 35 feet above average ground level.

The Building Inspector may authorize a height in excess of 35 feet if the structure is any of the following, providing it does not constitute a hazard: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, silos, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, flag poles, and ski lift towers.

3.303 Front Yard Setback

Notwithstanding provisions for front yards elsewhere in these Regulations, on streets with less than 50 foot rights-of-way or where the right-of-way line is not known, the front yard requirement shall be measured from the center line of the existing roadway and 25 feet shall be added to the front yard requirement.

Section 3.400 Nonconforming Uses and Buildings

3.401 Continuation of Use

A use, building or structure, which shall be made nonconforming at the passage of this Ordinance or any applicable amendment there-to may be continued except as otherwise provided in this Article.

3.402 Regulation of Non-Conforming Uses

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when required to do so by law or order and as follows:

3.402.1 Restoration

Upon a special use granted by the zoning board of appeals, a nonconforming building or structure may be reconstructed, substituted or structurally altered, provided the area or volume of space occupied by the nonconforming use, except a residential nonconforming use, is not increased more than 25 percent of its prior existing area or volume, and where the zoning board of appeals determines that the public safety, welfare and/or convenience will be served by such reconstruction, substitution or alteration.

3.402.2 Change of Use

- a. A nonconforming use or structure shall not be changed into a use which is permitted in a less restrictive district.
- b. A nonconforming use may be changed into a conforming use.
- c. A nonconforming use which is not permitted in any district or which is permitted only as a special use may only be changed into a conforming use.
- d. When a nonconforming use shall be changed in accordance with the provisions hereof, the use of the building or other structure or tract of land shall not thereafter be changed again except in accordance with these regulations.

3.402.3 Repairs

- a. Normal maintenance repairs and incidental alteration of a building or other structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use.
- b. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.

3.402.4 Prior Approval

Nothing herein contained shall require any change in the plans, construction or designated use of a building complying with existing laws, a permit for which had been duly granted and the construction of which shall have been started before the date of adoption of this Ordinance or any applicable amendment thereto, and the ground story framework of which including the second tier of beams, shall have been completed within six (6) months of the date of the permit, and which entire building shall have been completed according to such plans as have been filed, within one (1) year of the date of adoption of this Ordinance or any applicable amendment thereto.

3.403 Termination of Nonconforming Uses

3.403.1 Abandonment

The discontinuance of a nonconforming use for a period of one (1) year and/or the change of use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof and such nonconforming use shall not thereafter be revived. Intent to resume active operations shall not affect the foregoing.

3.403.2 Partial Destruction

When fifty (50) per cent or more of the existing floor area or volume of a nonconforming building or structure, or use of land is destroyed by fire or other casualty, the use of such building, structure or land as a nonconforming use shall thereafter be terminated except that, upon a special use granted by the zoning board of appeals such nonconforming building, structure or use may be restored, reconstructed or used as before, provided that the area or volume of such use, building or structure, except a residential use, building or structure, shall not exceed by greater than 25 percent of the area or volume which existed prior to such destruction and that the board shall determine that the public safety, welfare and/or convenience will be served by such restoration, reconstruction or use and provided further that application for such special use shall be filed with the Building Inspector not later than six months after such destruction and that such restoration or reconstruction shall be completed within one year after the granting of said special use.

Section 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.

Section 3.600 Signs

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

3.601 Signs in Residential and Rural Districts

3.601.1 Single-family houses and accessory home occupations and professions, and trades. One sign not over two (2) square feet in area.

3.601.2 Other Permitted Uses

a. In LDR and H-1 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.

b. In R-A District, not more than two (2) signs pertaining to a permitted use with a total area of not more than twenty-four (24) square feet each.

c. In LDR and H-I Districts, not more than two (2) signs pertaining to a permitted use with a total area of not more than thirty-two (32) square feet each.

No sign permitted by this section shall extend above a peak roof line or a parapet wall, whichever is the higher.

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 Business Districts

3.602.1 Business Signs. Not more than three (3) signs, not to exceed a total combined area of One Hundred (100) 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. No sign shall project above a peak roof line or a parapet wall, whichever is the higher.

3.602.2 Detached 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 fifty (50) square feet in area. No such sign shall project over a way customarily 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 One Hundred Fifty (150) square feet.

3.603 General Sign Regulations

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 Illuminated Signs. Flashing signs and revolving illuminated signs are permitted in Industrial and Commercial Districts by special use permit.

3.603.4 Exterior Lighting. Exterior lighting of buildings or grounds is permitted in Commercial Districts provided such lighting be from shaded sources and be so located that beams are not directed toward any residential property or a public highway.

Section 3.700 Home Occupations

Any home occupation such as barber shop, beauty shop, art studios, dressmaking, teaching, or the professional office of a physician, dentist, lawyer, engineer, architect or accountant 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 within the principal or accessory structures.

Exterior displays or signs other than those permitted under the previous section, 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 produced.

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 for the first three cars.

Section 3.800 Proposed Streets

After a line of a future street is placed on the official map of the village, if any, buildings shall be set back from such line as though it were a street line.

Section 3.900 Storage of Mobile Homes, Boats, Trailers and Trucks

No mobile home, boat, trailer or truck shall be stored in the front 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 USES

Section 4.100 General Provisions

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

Section 4.200 Required Plan

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

Section 4.300 Expiration

A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than one year, and a new permit shall be required for continuance of that special use.

Section 4.400 Existing Violations

No permit shall be issued for a special use for a property where there is an existing violation of this ordinance.

Section 4.500 Standards Applicable to All Special Uses

4.501 The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

4.502 Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights, than would be the operations of any permitted use.

ARTICLE V SPECIAL REGULATIONS

Section 5.100 Site Plan Review

The planning board shall review all site plans for all non-residential uses, public and semi-public buildings and multi-family residential units, whether or not such development includes a subdivision or re-subdivision of a site. The construction of a residential single or two-family dwelling and farm buildings shall not be covered in this section.

Required site plans shall show all buildings, parking areas, signs and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required. However, the elevations for all signs shall be provided. In addition, the site plans shall show the adjacent building outlines and other outstanding features within 200 feet or as required by the board. The zoning board of appeals, after receiving a report on the site from the planning board, shall follow the same procedures as for a special use. The zoning board of appeals shall approve, approve with modification or disapprove the site plan. In modifying or disapproving any site plan, the board shall enter its reasons for such action in its records. The following shall be used for guides to the zoning board of appeals.

- 5.101 The proposed use, building design and layout shall meet the provisions of the zoning ordinance and other regulations and ordinances of the Town and the standards of New York State and shall meet the intent of the comprehensive plan.
- 5.102 The proposed use, design and layout will be of such a location in such size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.
- 5.103 The proposed use and layout will be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved. Factors for the zoning board of appeals to consider in this determination are the turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provisions for pedestrian traffic, and minimization of pedestrian-vehicular contacts.
- 5.104 The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping shall be such that it will not interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonably affect its value.
- 5.105 Signs shall be in accordance with the regulations of this ordinance and in addition shall be so designed and located as not to present a hazard, glare or unattractive appearance to either adjacent property or to motorists.

Section 5.200 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 Ordinance. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this Ordinance for the owners or residents of such development, or the owners or residents of adjacent properties.

The purpose of Planned Unit 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 trees, 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 Ordinance.
- g. Creation of new hamlets when needed to prevent the sprawl of the residential area.

5.201 Establishment of a Planned Unit Development District

Application for the establishment of a Planned Unit Development District by amendment of the Town Zoning Ordinance 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. In the event an application is made by a person or persons holding an option to purchase the lands, the application shall be accompanied by a statement signed by all owners of such land indicating concurrence with the application.

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 Ordinance 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 modifications, 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 ordinance to establish the Planned Unit Development District or reject the application.

5.201.1 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 Comprehensive 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.
- d. At least twenty-five (25%) percent of the area of the Planned Unit Development shall be retained in open space for common usage.

5.201.2 Required Data

The applicant shall furnish with the petition for the desired zoning change basic data, including a map showing the boundaries of the proposed Planned Unit Development District, existing zoning, topography, drainage and soil conditions, and such preliminary plans as may be required for an understanding of the proposed development.

5.202 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 Ordinance under Article IV, SPECIAL USES.

Section 5.300 Cluster Development

Proposals for Cluster Projects shall be submitted to the Building Inspector who shall submit copies to the planning board. The planning board shall have 30 days to review such plans. The material accompanying the proposal shall contain the following:

Required site plan shall show all buildings, parking areas, and landscaping at a scale sufficient to permit the study of all elements in the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required; In addition, the site plans shall show the adjacent building outlines and other outstanding features within 200 feet.

The planning board possesses the power to approve or deny any proposal for a Cluster Development. This power is connected with subdivision plat approval, also the responsibility of the planning board. By reviewing Cluster Development in the form of a subdivision plat, the planning board is able to modify provisions of the zoning ordinance subject to the following conditions:

1. The proposal is of benefit to the Town.
2. The proposed density does not exceed that required in the district where such development is to be located.
3. Any proposed uses are permitted in the districts where such development is to be located.

After reviewing the project, the planning board must then hold a public hearing (the same hearing required under subdivision review.) If the subdivision plat incorporating the Cluster Project is approved and filed, the Village Clerk then must note the necessary changes on the zoning ordinance and zoning map.

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

5.301 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.

5.302 Open space and recreation areas.

5.303 A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion.

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

5.305 An environment in harmony with surrounding development.

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

The area of the land to be developed shall not be less than six contiguous acres and shall be permitted in any district allowing by special permit Planned Unit Developments.

Lot size, width, front yard depth, and side yard requirements may be waived; however, these will be evaluated by the planning board and board of appeals on their individual merit.

A Cluster Development shall incorporate at least 50 percent open space for common usage.

Section 5.400 Essential Services

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

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

to and through such streets.

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

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

Section 5.500 Mobile Home Parks

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

5.501 Such facility shall be situated on a minimum parcel of five acres of land.

5.502 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.

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

5.504 Such mobile home court or park shall not be closer than five hundred (500) feet to an H-1 district and 200 feet from any permanent residential building located outside the park or court and shall be located on a public street or highway having a pavement width of not less than eighteen (18) feet and shall provide ingress and egress so as to minimize traffic congestion.

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

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

5.507 Each mobile home space or berth shall have water connection, sewage and electrical outlet.

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

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

5.510 A site plan showing roadways, parking berths, service structures and facilities, drainage, landscaping, lighting and provision of sanitary facilities shall be filed with the application for a permit.

5.511 The fee for mobile home lots or trailer lots shall be twenty-five (\$25.00) per mobile home lot or trailer lot and shall be paid to the Town Building Inspector at the time of approval of such application.

5.512 The installation of a mobile home or trailer outside a specified mobile home or trailer park is prohibited.

ARTICLE VI BOARD OF APPEALS

Section 6.100 Creation and Membership

There is hereby established a Board of Zoning Appeals having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of five (5) members, one of whom shall be a member of the Planning Board, appointed by the Town Board. Appointments shall be in accordance with the Consolidated Laws of the State of New York. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term.

Section 6.200 Organization and Procedure

6.201 Appointment of Officers, Meetings

The Town Board shall appoint a chairman. The Zoning Board shall adopt rules and regulations consistent with the law or ordinance. Meetings of the Zoning Board shall be held at the call of the chairman and at such other times as the Zoning Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

6.202 Hearings Open to the Public

Hearings of the Zoning Board shall be public. The Zoning Board shall keep minutes of its proceedings, showing the action of the Zoning Board and the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its inspections and other official actions, all of which shall be a public record.

6.203 Voting

The Zoning Board shall act by resolution. The concurring vote of a majority of the members of the Zoning Board shall be necessary to reverse any order, requirement or decision or determination of the Building Inspector or the Planning Board or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance or to grant any variation from the requirements of this Ordinance.

Section 6.300 Powers and Duties

6.301 Action of the Zoning Board

In exercising its powers, the Zoning Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may value such order, requirement, decision or determination as in its judgment ought to be made in accordance

with the provisions of this Ordinance and pursuant to the Consolidated Laws of the State of New York.

6.302 Hear and Decide Appeals

To hear and decide appeals where it is alleged that error or misinterpretation in any order, requirement, decision, grant or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of the provisions of this Ordinance or any ordinance pursuant thereto.

6.303 Hold Public Hearings

To hold public hearings, as required and as may be permitted by this Ordinance.

6.304 Approve Special Uses

An application to the Building Inspector for a special use permit as discussed in Article IV, Section 4.200, the Board of Appeals may grant a permit for any use for which approval by the Board is required. The Board shall hold a public hearing on any such application prior to acting thereon. In reaching a final decision the Board shall consider the elements specified in Section 4.500.

6.305 Grant Variances

6.305.1 Zoning Board May Grant Variance. Upon appeal, and after public notice and personal notice, and after hearing, and subject to appropriate safeguards and conditions for the protection of public and of neighboring properties, the Zoning Board may,

for a use permitted in the zone district, vary the strict application of any of the requirements of this Ordinance, provided that said variance shall be in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.

6.305.2 Purpose of Variance. The primary purpose of any variance shall be to relieve hardship created by the strict interpretation of the ordinance.

6.305.3 Required Findings for Variances. No variance in the strict application of any provision of this Ordinance shall be granted by the Zoning Board unless it finds the following:

a. That there are special circumstances or conditions, fully described in the findings, applying to the land or buildings that do not apply generally to land or buildings in the neighborhood.

b. That said circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building.

c. That for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Board is the minimum variance that will accomplish this purpose.

d. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

6.306 Permit Building in Bed of Mapped Streets

After due notice and hearing as provided for in the Consolidated Laws of the State of New York and in accordance with the provisions set forth therein, the Zoning Board may grant a permit for a building in the bed of a mapped street or highway shown upon the official map or plan of the Town of New Scotland as it may be adopted and from time to time amended.

6.307 Interpretation of Ordinance and Boundaries

Upon appeal from a decision by the Building Inspector to decide any question involving the interpretation of any provision of this Ordinance and where uncertainty exists as to the boundaries of any zone district the Zoning Board 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 Zoning Map of the Town of New Scotland.

6.308 Refer Matters to the Planning Board

To refer to the Planning Board such matters as required by this Ordinance and any other pertinent matters for review and recommendations, and defer any decision thereon for a period of not more than thirty (30) days pending a report from the Planning Board.

6.309 Authorize Temporary Uses

To grant after due notice and hearing, the 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 Zoning Board may impose to minimize any injurious affect upon the neighborhood or to protect contiguous property. The approval of the Zoning Board and any permit based thereon, for such temporary occupancy and use, shall not be granted for a period of more than (12) months and, shall not be renewable more than once and then, for a period of not more than twelve (12) months.

ARTICLE VII ADMINISTRATION AND ENFORCEMENT

Section 7.100 Building Inspector

The Building Inspector is hereby given the duty, power and authority to enforce the provisions of this Ordinance. He shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance and all nonconforming uses, record and file all applications for permits with accompanying plans and documents, and make such reports as may be required. Building permits for a variance from the requirement of this Ordinance and for special uses shall be issued only upon written order of the Board of Zoning Appeals.

Section 7.200 Building Permits

7.201 Purpose.

To determine compliance with the provisions of this Ordinance. No person shall erect, alter or convert any structure or building or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a building permit has been issued by the Building Inspector. Building permits may be valid for a limited period of time for special uses of a temporary nature as established herein and for other uses as shall be regulated by the Board.

7.202 Application for Permits

7.202.1 Water Supply and Sewage Disposal. All water supply and sewage disposal installations shall conform with the New York State Department of Health and County health regulations. No site plan shall be approved by the Building Inspector in any district unless such conformity is certified on the plan.

7.202.2 For Principal Permitted Uses. All such applications shall be accompanied by plans, in duplicate drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any building, sign, parking or loading area or other physical feature existing or proposed on the lot, the existing and intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate, and such other information as may be necessary to determine compliance with this Ordinance. One copy of such plans shall be returned to the owner when such plans are approved; one copy each of all applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

7.202.3 For Special Uses. All such applications shall be accompanied by plans as required in subsection 7.202.2 and such other information as may be required by the Zoning Board and/or the Planning Board, except that for large-scale development the following shall also be furnished:

- A general development plan showing the use or uses, dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses such as schools and playgrounds, landscaping, and other open spaces, and architectural drawings and sketches demonstrating the design and character of the proposed uses and the physical relationship of the uses, and such other pertinent information as may be necessary to a determination that the contemplated arrangement or use makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance.

7.203 Issuance of Permits

It shall be the duty of the Building Inspector to issue a building permit, provided he is satisfied that the structure, building, sign, parking area or premises, and the proposed use thereof, conform with all requirements of this Ordinance, and that all other reviews and actions, if any, called for in this Ordinance have been complied with and all necessary approvals secured.

All building permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected whenever construction work is being performed

thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a building permit covering such operation has been previously issued, and is being displayed as required by this Ordinance, nor shall they perform building operations of any kind after notification of the revocation of said building permit.

7.204 Denial of Permits

When the Building Inspector is not satisfied that the applicant's proposed development will meet the requirements of this Ordinance, he shall refuse to issue a building permit and the applicant may appeal to the Zoning Board for a reversal of the Inspector's decision.

7.205 Revocation of Permits

If it shall appear, at any time, to the Building Inspector that the application or accompanying plot is in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may revoke the building permit whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Building Inspector. After the building permit has been revoked, the Building Inspector may, in his discretion, before issuing the new building permit require the applicant to file an indemnity bond in favor of the Town of New Scotland with sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

Section 7.300 Occupancy Permits

7.301 For New Uses

After completion of the whole building or structure, and upon the sworn application by the owner or his duly authorized agent, detailing such facts as the Building Inspector may require, and after actual inspection of the premises by the Building Inspector, or his duly authorized assistant, the Inspector shall upon finding the facts to be as represented, issue in duplicate an occupancy permit, certifying that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the permit, which purposes shall conform with the requirements of this Ordinance. No change of use shall be made in any building, structure, or premises now or hereafter erected or altered that is not consistent with the requirements of this Ordinance. Any person desiring to change the use of his premises shall apply to the Building Inspector for an occupancy permit, outlining under oath such facts as the Building Inspector may require. A copy of the occupancy permit shall be kept at all times upon the premises affected, and shall be displayed upon request

made by any building inspector or police officer. A record shall be kept of all occupancy permits issued and the original applications shall be kept on file in the same manner as applications for building permits. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Ordinance without first procuring an occupancy permit; provided that an occupancy permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

7.302 For Existing Uses

Upon written request from the owner, tenant or occupant, the Building Inspector, after inspection, shall issue an occupancy permit for an existing use legally existing at the time this Ordinance is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Ordinance.

Section 7.400 Planning Board

7.401 Review Applications and Appeals

7.401.1 Referral from the Zoning Board. The Zoning Board shall refer to the Planning Board all applications for special uses, (including large-scale developments) and any other applications or appeals which, in the opinion of the Zoning Board, require review by the Planning Board.

7.401.2 Criteria for Review. The Planning Board shall review such applications in accordance with applicable criteria.

7.401.3 Report of the Board. The Planning Board may approve, disapprove, or approve subject to condition, or modification and shall report its findings to the Board within thirty (30) days of receipt thereof; such report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

7.402 Addition of Other Similar Uses

7.402.1 Procedure. The Planning Board may recommend similar uses in keeping with the intent of this Ordinance to the Town Board of Trustees.

7.402.2 Conditions.

- a. Such use is not permitted in any other zone district and if so permitted shall not be further permitted in a more restrictive district than the district where such use is first permitted.
- b. Such use is more appropriate in the district or districts where it is added than in any other district or districts.
- c. Such use conforms to the basic characteristics of the district to which it is to be added and will not adversely affect any uses already permitted in such districts.
- d. Such use does not create any danger to health and safety.
- e. Such use is not likely to create any more traffic than the other uses permitted in such district(s), and does not create any more dangerous or objectionable influences normally resulting from other permitted uses.

7.403 Bi-Annual Report to the Town Board

Following the enactment of this Ordinance the Planning Board shall, from time to time, prepare and file with the Town Board, but in no case at less than two (2) year intervals, a report on the operation of this Ordinance including recommendations as to the enactment of amendments, supplements or changes.

Section 7.500 Appeals

7.501 Appeal from Building Inspector

7.501.1 Procedure for Appellant.

- a. An appeal to the Zoning Board from any ruling of any officer administering any portion of this Ordinance, may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town, affected thereby. Such appeal shall be taken by filing with the officer from whose action the appeal is taken and with the Zoning Board by filing with the Secretary, a notice of appeal, specifying the grounds.

b. All applications and appeals made to the Zoning Board shall be in writing on forms prescribed by the Building Inspector. Every application or appeal shall refer to the specific provision of this Ordinance, and shall exactly set forth the interpretation that is claimed, the plans for a special use or the details of the variance that is applied for, in addition to the following information:

1. The name and address of the applicant, or appellant.
2. The name and address of the owner of the zone lot to be affected by such proposed change or appeal.
3. A brief description and location of the zone lot to be affected by such proposed change or appeal.
4. A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.
5. A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction details. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and the size of improvements proposed to be completed.

7.501.2 Procedure for Building Inspector.

- a. The notice of appeal in any case where a permit has been granted or denied by the Building Inspector shall be filed within such time as shall be prescribed by the Zoning Board under general rule, after notice of such action granting or denying the permit has been mailed to the applicant. The Building Inspector shall forthwith transmit to the Zoning Board all papers considering the record upon which the action appealed from was taken, or in lieu thereof certified copies of said papers.

- b. It shall be competent for the Building Inspector to recommend to the Zoning Board a modification or reversal of his action in cases where he believes substantial justice requires the same but where he has not himself sufficient authority to grant the relief sought.

7.501.3 Procedure for Board. The Zoning Board shall decide each appeal within a reasonable time, and notice shall be given to all parties in interest. Upon the hearing any party may appear in person or be represented by an agent or attorney. The Zoning Board's decision shall be immediately filed in its office and be made a public record. In the exercise of its functions upon such appeals or upon exceptions, the Zoning Board may in conformity with the provisions of this Ordinance, 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 hereof.

7.501.4 Expiration of Appeal Decision. Unless otherwise specified by the Zoning Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary Building Permit, or comply with the conditions of said authorized permit within six (6) months from the date of authorization.

7.501.5 Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector certifies for the Zoning Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, stay would, in his 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 Zoning Board, or by the Supreme Court on application, on notice to the Building Inspector and on due cause shown.

7.501.6 Appeal from Decision of Zoning Board. All decisions of the Zoning Board are subject to court review by certiorari in accordance with the Consolidated Laws of the State of New York

Section 7.600 Public Hearings and Notice

The Zoning Board shall fix a reasonable time for the hearing on the appeal or application and give due notice to the following officials, persons and owners of property, not less than ten (10) days prior to the day of the hearing.

7.601 When Appealing Action of the Building Inspector

In case of an appeal alleging error or misinterpretation in any order or other action by the Building Inspector, the Inspector, the appellant, and the person or persons, if any, who benefit from the order, requirement, regulation or determination.

7.602 When Appealing for Variance, Special Use

In case of an appeal for a variance or in case of an application for a special use, as provided for in this Ordinance, all owners of property within one thousand (1,000) feet of the nearest line of the property for which the variance or special use is sought, and to such other property owners as the Chairman of the Board may direct.

7.603 Other Appeals

In case of a request or an application for a change of use, an application for a special use, or an application to build in the bed of a mapped street, the Secretary of the Board shall transmit to the Planning Board, not less than ten (10) days prior to the hearing, a copy of the application plans and other available data, except as otherwise provided herein. 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 land use plan, public health, safety and welfare of the Town of New Scotland.

7.604 Adjournment of Hearing

Upon the day for hearing any application or appeal, the Zoning Board may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

7.605 Required Interval for Hearings on Applications and Appeals After Denial

Whenever the Board, after hearing all the evidence presented upon an application or appeal, under the provisions of this Ordinance, denies the same or refuses to recommend to the Town Board, the Zoning Board shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, their successor or assign for a period of one (1) year, except and unless the Zoning Board 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.

Section 7.700 Violations

7.701 Complaints of Violations

Whenever a violation of this Ordinance occurs, any person may file a complaint

in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon.

7.702 Procedure for Abatement of Violations

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, or of any ordinance or regulation made under authority conferred hereby, the Town Board, or, with their approval, the Building Inspector or 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.

7.703 Penalties

Any person, firm or corporation violating any provision of this Ordinance shall, upon conviction, be punished by a fine not to exceed Fifty Dollars (\$50.00) for any offense, recoverable with costs, together with judgment or imprisonment not exceeding six (6) months if the amount of said judgment is not paid. Each day that a violation is permitted shall constitute a separate offense.

ARTICLE VIII AMENDMENTS

Section 8.100 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 Ordinance, after public notice and hearing.

Section 8.200 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, it shall be conclusively presumed that the Planning Board has approved the proposed amendment, supplement or change.

Section 8.300 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:

8.301 Public Notice

By publishing a notice at least 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.

8.302 Personal Notice

8.302.1 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.

8.302.2 A written notice of any proposed change or amendment affecting property within 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.

8.303 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 IX MISCELLANEOUS

Section 9.100 Interpretation

In this interpretation and the application of the provisions of this Ordinance, they shall be held to be 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 ordinances, including those of the State of New York and the County of Albany provided that where this Ordinance 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 Ordinance shall control.

Section 9.200 Validity

If any section, subsection, sentence, clause or phrase of this Ordinance 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 Ordinance.

ARTICLE X DEFINITIONS

10.100 Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Ordinance, and words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure", the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used, and the word "shall" is mandatory and not optional, the word "abut" shall include the words "directly across from".

10.101 Accessory Use or Structure

A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

10.102 Agent of Owner

Any person who can show written proof that he is acting for the property owner.

10.103 Automobile 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.

10.104 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 major and minor automotive repairs may be made.

10.105 Building

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements.

10.106 Building Height

The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, tanks, and similar projections.

10.108 Dwelling (Residence)

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, except as provided herein.

a. Dwelling, Single-Family

A detached building, designated for or occupied exclusively by one family and containing not more than one dwelling unit.

b. Dwelling, Two-Family

A detached or semi-detached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

c. Dwelling, Multi-Family

A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

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 detached single-family 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. This definition includes uses to which mobile homes might be put. Unless otherwise provided for by separate ordinance a mobile home dwelling shall be considered a single-family dwelling. Sectional homes are not included in this definition.

10.109 Dwelling Unit

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

10.110 Farm or Nursery

A unit of land having more than five (5) acres and used for cultivation, pasture or other customary agricultural or nursery purposes, including the display and sale of products raised on land owned or controlled by said party and providing that 50 percent or more of the products sold by him are produced by him and the raising of stock and poultry except as noted under the definition of a hog, pig, or fur-bearing animal farm.

10.111 Home Occupation

An accessory use generally of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof, or have any exterior evidence of such secondary use other than a small name plate, and in connection there is not involved the keeping of stock-in-trade.

10.112 Junk

Junk shall be deemed to include scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, appliances, fixtures, utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

10.113 Large-Scale Business and Industrial Developments

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 non-residential principal buildings.

10.114 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 Ordinance, and having frontage on a public highway, road or street.

a. Lot, Corner

A lot abutting upon two (2) or more streets, roads, or highways at their intersection or upon two 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 the 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, or highway.
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. A side lot line separating a lot from a street, road or highway is called a side street, road or highway lot line.
4. Lot Line, Street, Road, Highway or Alley. A lot line separating the lot from a street, road, highway, or alley.

d. Lot Width

The mean width of the lot measured at right angles to its depth.

e. Lot Area

The computed area contained within the lot lines.

10.115 Nursing or Convalescent Home

Any premises with less than fifteen (15) sleeping rooms where persons are lodged and furnished with meals and nursing care.

10.116 Off-Site Sewer or Water

Those facilities provided for common usage in a planned unit development or by a public entity, and which shall meet the required standards of a planned unit development application or the Albany County Health Department.

10.117 Planning Board

May also mean "planning commission."

10.118 Public Sewer and Water

Utilities as provided by a municipality, a district or any other public entity and which shall fulfill requirements of this zoning ordinance.

10.119 Public Way

Any right-of-way open to the public for vehicular or pedestrian access.

10.120 Recreation

- a. **Recreation, Commercial**
Recreation facilities operated as a business and open to the general public for a fee, including golf courses, golf driving ranges, ice-skating rinks, swimming pools, picnic groves, amusement parks and fairgrounds.
- b. **Recreation, Private, Non-Profit**
Clubs or recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization.
- c. **Recreation, Public**
Recreation facilities operated as a non-profit enterprise by the Town of New Scotland, any other governmental entity or any non-profit organization and open to the general public.

10.121 Residential Street, Road or Highway

A street, road or highway, between two intersecting streets, roads or highways, where fifty (50) percent or more of the abutting street, road or highway frontage is in predominantly residential use.

10.122 Special Use

A "special use" is a use which because of its unique characteristics requires individual consideration in each case by the Zoning Board and the Planning Board before it may be permitted in a district. In accordance with the provisions of this Ordinance, the Zoning Board may require and the Planning Board may recommend certain conditions and safeguards before such a use is permitted.

10.122a Special Use Permit

The permit issued by the Zoning Board allowing a special use.

10.123 Story

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

10.124 Street, Road or Highway

A public thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road and any other thoroughfare except an alley.

10.125 Structure

Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including stationary and portable car-ports.

10.126 Trailer ,Camping Trailer

A residence, house car, or any portable vehicle on wheels, skids or rollers not structurally anchored to a foundation, propelled by an attached vehicle or other propelling apparatus which is used for residential, commercial, hauling, or storage purposes.

10.127 Trailer Court or Mobile Home Park

Land, lot or parcel upon which trailers or mobile homes are parked and occupied for living and/or camping purposes.

10.128 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 occupants of the zone lot of which it shall be a part, and shall not include any side yards, drive-ways and access-ways.

10.129 Yard

An open space, as may be required by this Ordinance, of uniform width, or depth or the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line, and is unoccupied and unobstructed from the ground upward except as herein permitted.

a. Yard, Front

An open space extending the full width of the lot between a building and the street or highway line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

b. Yard, Rear

An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

c. Yard, Side

An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

10.130 Variance

The Board's authorized departure to a minor degree from the terms of this Ordinance in direct regard to a hardship peculiar to an individual lot in accordance with the procedures set forth in this Ordinance.