

GENERAL CODE PUBLISHERS CORP.

INSTRUCTIONS

Town of New Scotland Code Supplement No. 1

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

REMOVE

190:3 – 190:4
190:7 – 190:14

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190:3 – 190:4
190:7 – 190:14

**Code
of the
Town of
New Scotland**

COUNTY OF ALBANY

STATE OF NEW YORK

SERIAL NO. **...503....**

GENERAL CODE PUBLISHERS CORP.
72 Hinchey Road
Rochester, NY 14624

2004

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OF THE
TOWN OF NEW SCOTLAND

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2004

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07 - 01 - 2004

PREFACE

Town History

The earliest European settlement of the area known as the Town of New Scotland occurred in the early 17th century. In 1629, the Dutch West India Company granted a patroonship to Killian VanRensselaer. This patroonship would prove to be a strong economic and political influence in the area until the early 19th century, ending with what is called the "Anti-Rent Wars." By the 18th century, many settlers from Holland, Scotland, England and elsewhere began to populate the choicest land for farmsteads.

The early economy of the region was primarily based on agriculture. Food crops and fodders for the livestock were raised and hops were harvested extensively for shipment to nearby breweries in the City of Albany. Apples, plums, melons and other fruits were later added to this list of valuable produce. Many still-existing farms date back to this early period.

After the American Revolution, the population began to grow significantly. Various churches (Dutch Reform, Presbyterian, and Methodist) were erected in the various hamlets. They not only provided for the religious needs of the people, but also served as meeting halls and social centers. The results of this would be the development of many rural communities throughout the future Town's area.

On April 25, 1832, the Town of New Scotland was created by an act of the New York State Legislature. The Town's entire jurisdiction has formerly been part of the Town of Bethlehem within the County of Albany.

Following the Civil War, the Town of New Scotland, along with the rest of the nation, began to feel the influence of improved communication and transportation. Perhaps the single greatest factor in its total impact on the Town was the establishment of the railroad. Both Feura Bush and New Scotland were already established communities when their train stations were built. The Village of Voorheesville came into being as a result of the train's expansion, and it is the only incorporated Village in the Town.

The Town of New Scotland consists of a total of 58 square miles. Its population has grown from 2,030 in 1835 to nearly 9,000 people in 2000. The villages and hamlets of the Town include Clarksville, Feura Bush, New Salem, New Scotland, Onesquethaw (Tarrytown), Unionville, and Voorheesville.

Introduction

The Town of New Scotland has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of munici-

NEW SCOTLAND CODE

pal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Board ordered the following codification of the Town's legislation.

Contents of Code

The various chapters of the Code contain selected legislation of a general and permanent nature enacted by the Town Board of the Town of New Scotland, including revisions or amendments to such legislation deemed necessary by the Town Board in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, is reserved for Town legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, is reserved for Town legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions

PREFACE

are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

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Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Town officials is gratefully acknowledged by the editor. The codification of the legislation of the Town of New Scotland reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

TABLE OF CONTENTS

Tools for Finding Information – In addition to the municipality’s legislation, this publication contains tools to help locate information: table of contents, index, chapter outlines (schemes), and a disposition list.

Chapters – Chapters are generally discrete pieces of legislation, but can also be made up of several individual pieces on a related topic. In that case, the individual pieces are arranged into articles or parts within the chapter. The article or part titles can be found in the chapter scheme or by subject in the index. If you are familiar with a former number or title, look for it chronologically in the disposition list.

Reserved Chapters – In the numbering of chapters, space has been provided for the convenient insertion, alphabetically, of later enactments. Help in selecting an appropriate number for a new chapter is available from the editor. See also the “Instructions for Amending the Code” in the Preface.

Section Numbering – A chapter-related section-numbering system is employed. Each section of every item of legislation is assigned a number, which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the fourth section of Chapter 6 is § 6-4.

Scheme – The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

Page Numbers – A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral “1.” Thus, Chapter 6 begins on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

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PART I: ADMINISTRATIVE LEGISLATION

General Provisions 1:1

PART II: GENERAL LEGISLATION

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DISPOSITION LIST

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PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

[A local law adopting the Code of the Town of New Scotland and making certain substantive changes to existing land use, sewer and water local laws and ordinances of the Town is presently proposed before the Town Board. Upon final adoption, it will be included here as Article I of this chapter.]

PART II

GENERAL LEGISLATION

Chapter 89

DUMPS AND DUMPING

§ 89-1. Legislative findings and intent.

§ 89-2. Definitions and word usage.

§ 89-3. Applicability.

§ 89-4. Dumping prohibited.

§ 89-5. Private landfilling; restrictions on use.

§ 89-6. Town dump restrictions.

§ 89-7. Enforcement.

§ 89-8. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of New Scotland 9-24-1969; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Junk — See Ch. 116.

Zoning — See Ch. 190.

§ 89-1. Legislative findings and intent.

By the adoption of this chapter, the Town Board of the Town of New Scotland declares its intent to be to regulate in a manner consistent with the interest of the citizens of the Town of New Scotland the dumping of garbage, rubbish, refuse and similar waste material on lands within the Town, and to provide for the disposal thereof on established Town dumps. Garbage is a deleterious substance and garbage dumps emit obnoxious odors and fumes. Unattended, private garbage dumps and disposal areas attract rodents and vermin and become breeding place for them. All of these conditions can adversely affect the development of the Town unless they are properly and carefully regulated. Therefore, recognizing the above and the need of the community for an adequate and well-regulated procedure for the disposal of garbage and rubbish, and in the exercise of its police power in these regards, the Town Board of the Town of New Scotland does hereby enact the following chapter.

§ 89-2. Definitions and word usage.

When terms are not defined in this chapter and are defined in other codes, laws or ordinances of the Town of New Scotland, such terms shall have the meanings ascribed to them as in those codes, laws or ordinances. When terms are not described through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

§ 89-3. Applicability.

This chapter shall apply to dumping upon all lands, public and private, within this Town except upon such premises as are or may be lawfully established as a public dump or dumping grounds of this Town and thereon only in the manner herein provided.

§ 89-4. Dumping prohibited.

No person shall use any of the lands within the Town of New Scotland as a dump, dumping grounds or sanitary landfill, nor shall any person throw, dump, deposit or place on such lands or cause to be thrown, dumped, deposited or placed on such lands any waste materials or waste substances such as bottles, cans, stumps, junk, yard trimmings and waste (generated off site), garbage, refuse, trash, rubbish, litter or any nauseous or offensive matter, nor dispose or attempt to dispose of any such materials, substances or matter by burying the same, by so-called sanitary landfills or otherwise, on such lands, except as otherwise provided herein.

§ 89-5. Private landfilling; restrictions on use.

No person shall deposit or cause to be deposited on premises any clean fill, obtained from on or off the site, in excess of 100 cubic yards prior to the issuance of a special use permit by the Town of New Scotland Planning Board, except as required by other authorities having jurisdiction in regard to fill needed for the construction of sanitary waste or stormwater management facilities.

§ 89-6. Town dump restrictions.

- A. No person shall deposit or cause to be deposited on premises established as a public dump of this Town, except at the places and in the manner directed by the person in charge of the premises under the authority of the Town Board, if such a person is so designated, or by a sign or signs erected upon the premises by the authority of the Town Board.
- B. No person shall deposit or cause to be deposited on premises established as a public dump of this Town any substance of any kind which originated or was collected from outside of the Town of New Scotland.
- C. No person, not a resident of or conducting an established business in the Town of New Scotland, may deposit or cause to be deposited any substance of any kind on premises established as a public dump of this Town. The Town Board may provide for such method of identification of Town residents or their vehicles as it may deem necessary and expedient.
- D. No person shall hunt, trap or snare animals or birds of any description, set any traps or snares or discharge any firearms on premises established as a public dump of the Town, nor shall any person trespass on said premises for such purposes.
- E. Said premises established as a public dump shall be open to the public on such days and hours as the Town Board shall from time to time determine, and notice of such days and hours shall be given by posting same on a sign or signs erected on the premises by the authority of the Town Board.
- F. All gates to said premises shall be securely locked at all times and no unauthorized persons shall trespass on said premises for any purpose except during the days and hours so determined.

§ 89-7. Enforcement.

This chapter may be enforced by the Building Inspector of the Town of New Scotland as follows:

- A. 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 such enforcement procedures as may be authorized by law.

§ 89-8. Penalties for offenses.

- A. Any person who shall violate any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Chapter 110

HIGHWAY SPECIFICATIONS

§ 110-1. Specifications for Town acceptance of streets.

§ 110-2. Documentation required for street acceptance.

§ 110-3. Standard highway cross-section for residential streets.

§ 110-4. Penalties for offenses.

Highway Cul-de-Sac

Typical Street Section

[HISTORY: Adopted by the Town Board of the Town of New Scotland 7-11-2001 by L.L. No. 8-2001; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 164.

§ 110-1. Specifications for Town acceptance of streets.

No street laid out after the date of the passing of this chapter will be accepted as a Town street unless it shall conform to regulations hereinafter provided and the applicable provisions of Chapter 164, Subdivision of Land, of the Code of the Town of New Scotland.

- A. Prior to acceptance by the Town all streets shall be graded according to the typical section on file in the office of the Town Superintendent of Highways, as follows: Proper drainage shall be installed where required. Corrugated iron pipe shall be used throughout for all culverts or subsurface drains. Said pipe is to conform to the standard usage adopted by the Town Superintendent of Highways and/or the Town-designated Engineer. Driveway pipe and installation shall conform to the attached drawing "Typical Street Section."¹ A profile, in duplicate, approved by the Town Planning Board, shall be filed with the Town Board, showing the grade and fall of surface water to be not less than one foot every 200 feet and also showing the final disposition of flow.
- B. All streets or roads offered for dedication shall be suitably and properly graded and shall meet with the approval of the Town Superintendent of Highways and/or the Town-designated Engineer. There shall be a roadway of adequate width as designated in Chapter 164, Subdivision of Land, constructed as specified herein. The roadway section shall be as specified herein and in Chapter 164, Subdivision of Land. The subgrade shall slope uniformly from the center line of the street to its intersection with the gutter line. The above details are indicated on the attached drawing "Typical Street Section, Town of New Scotland," dated January 1, 1986.²

1. Editor's Note: Said diagram is included at the end of this chapter.

2. Editor's Note: Said diagram is included at the end of this chapter.

- C. Subgrade. After all drains have been satisfactorily completed and the subgrade has been properly sloped, it shall be thoroughly rolled and compacted with an approved self-propelled roller weighing not less than 10 tons. Care shall be taken not to roll clay foundations enough to develop a plastic condition. All subbase material shall be placed on geotextile fabric unless otherwise determined by the Highway Superintendent or Town-designated Engineer. All hollows and depressions which develop shall be filled with acceptable materials and the subgrade shall be rolled again. This process of filling and rolling shall continue until no depressions develop. In places where the character of the material makes the use of such a roller impracticable, a lighter one may be permitted. The subgrade shall not be muddy, or otherwise unsatisfactory when pavement is placed upon it. All necessary drainage to effectively drain the roadway must be completed before the placing of any pavement will be permitted thereon.
- D. Road subbase. All subbase material shall be gravel of hard, durable stone, and well graded as specified herein.
- E. Storm drainage. Storm drainage shall be provided so that in no case will surface water be carried in highway ditches more than 600 feet. The minimum size storm sewer shall be 15 inches.
- F. All manholes, catch basins, or inlets shall be four feet in diameter and shall have a circular cross or square section. The minimum depth of catch basins from the top of the casting shall be three feet eight inches, and the minimum sump shall be 12 inches. Openings in catch basin castings shall be rectangular in shape with section modulus providing for heavy loading.

§ 110-2. Documentation required for street acceptance.

Further, no street offered for acceptance as a Town highway after the date of this chapter shall be accepted by the Town unless the offer is accompanied by the following:

- A. The written approval of the Town Planning Board.
- B. A deed acceptable to the Town Board.
- C. A title search covering a period of at least 40 years prior to the date of application together with a tax search.
- D. An assignment to the Town of all easements and rights-of-way necessary to provide for the drainage of all water from said highway.
- E. The written approval of the New York State Department of Transportation to connect the street with any state highway if the street joins a state highway; and the written approval of the County Superintendent of Highways to connect the street with the county highway if the street joins a county highway. This approval shall also include a statement that the provisions for drainage from the street are acceptable to the state or county.
- F. A maintenance contract signed by offeror wherein he agrees to maintain the street in a good state of repair satisfactory to the Town Superintendent of Highways for a period of 18 months from the date of formal acceptance of the street as a Town highway.

- (1) The agreement shall cover the maintenance of all portions of the street including the carriageway, shoulders, ditches, culverts, sluiceways, drainage facilities, and any other portions of the street. It shall also obligate the offeror to correct all defects of initial installation or construction however caused.
 - (2) It shall also obligate the offeror to use only materials which are satisfactory to the Town Superintendent of Highways, and if unsatisfactory materials are used, to remove them and replace them with materials satisfactory to the Town Superintendent of Highways.
 - (3) The contract shall obligate the offeror to perform the work when needed and without notice from the Town and to save the Town harmless from all liability arising out of failure to fulfill his obligations under the agreement or his failure to do any work required in a proper manner.
 - (4) The contract shall require the offeror to complete any work deemed to be necessary by the Town Superintendent of Highways within 10 days of receipt of a written notice by the Town Superintendent of Highways (or any such longer time as the notice may state) stating the deficiency and corrective work required. Upon the offeror's failure to comply with this written request, the Town Superintendent of Highways may, without further notice, perform or contract for the performance of the corrective work set forth in the notice at the expense of the offeror, and the offeror shall agree to pay the Town all expenses, including labor, materials, and equipment expenses, within 15 days of presentation of a statement of expenses.
 - (5) The contract shall state that the offeror's obligation to perform any corrective work necessary before the end of the eighteen-month period shall survive the termination of the agreement and if, in the opinion of the Town Superintendent of Highways, this work cannot be segregated from work which becomes necessary after the end of the eighteen-month period, he, the Town Superintendent, shall in his sole discretion, designate the part (including the whole) of the work which shall be performed by the offeror.
 - (6) It is the purpose of this maintenance contract to enable the Town to accept streets as Town highways prior to the time when it would otherwise do so to assist the offeror in the financing and sale of property abutting the street but to leave with the offeror the expenses and obligations for the road which the Town would otherwise prematurely assume.
- G. A performance bond or cash deposit in the amount designated by the Town Board to guarantee the performance of the maintenance contract and the completion of the requirements of the Town Planning Board.

§ 110-3. Standard highway cross-section for residential streets.

All streets shall conform to the Standard Highway Details.³

3. Editor's Note: Said diagrams are included at the end of this chapter.

- A. Drainage. Prior to placement of subbase material, underdrainage shall be installed where required, as determined by existing soil and/or subsurface water conditions or as required by the Highway Superintendent. The developer, or owner, laying out the streets or highways for acceptance by the Town shall obtain all necessary easements and/or right-of-ways necessary to take care of all surface and ground water caused by reason of the installation of culverts or surface drains or underdrains.
- B. Highway subbase and pavement specifications.
- (1) Prior to the placement of each course of material specified herein, the Superintendent of Highways or his authorized representative shall inspect and approve the roadway construction. The developer shall install all conduits specified by any utility company, at depths and locations specified by the respective utility company prior to the placement of gravel subbase material.
 - (a) Certain soil conditions or wet areas may require the use of geotextiles when so directed by the Superintendent of Highways or his authorized representative.
 - (2) Prior to placement of subbase material, geotextile fabric shall be placed on the compacted subgrade.
 - (3) Gravel subbase material for all highways/roadways shall be Item 304.05, Type 4.
 - (4) Gravel subbase shall be furnished, placed and compacted in conformance with the New York State Department of Transportation (NYSDOT) "Standard Specifications - Construction and Materials" of January 2, 1990, and all addenda.
 - (a) Materials:
 - [1] Item 304.04 - Subbase Course, Type 3.

Sieve Size Designation	% Passing By Weight
4 inch	100
1/4 inch	30 to 75
No. 40	5 to 40
No. 200	0 to 10

- [2] Item 304.05 - Subbase Course, Type 4.

Sieve Size Designation	% Passing By Weight
2 inch	100
1/4 inch	30 to 65
No. 40	5 to 40
No. 200	0 to 10

- [3] Materials furnished shall consist of approved blast furnace slag or stone, sand and gravel or blends of these materials, free of organic or other deleterious materials.

(b) Placement:

- [1] The thickness and types of gravel subbase material to be used between the top of the subgrade and the bottom of the pavement shall be approved by the Superintendent of Highways or his authorized representative.
 - [a] For subgrade soil consisting of stone fragments, gravel, sand, fine sand, silty or clayey gravel and sand, the proposed subbase thickness shall be 12 inches.
 - [b] For subgrade consisting of silty soils, the proposed subbase thickness shall be 18 inches.
 - [c] For subgrade soil consisting of clayey soils, the proposed subbase thickness shall be 24 inches.
- [2] To achieve these thicknesses, the following minimum and maximum depths apply:
 - [a] The maximum thickness of Item 304.05, Type 4, shall be 24 inches and the minimum thickness shall be four inches.
 - [b] The maximum thickness of Item 304.04, Type 3, shall be 20 inches and the minimum thickness shall be six inches.
- [3] Item 304.04, Type 3, material shall not be placed within four inches of the bottom of the pavement course. In roadway cut sections where the native material is impervious to water, i.e., rock, glacial till or other materials, determined by the Superintendent of Highways or his authorized representative, the minimum thickness of Type 3 material shall be six inches.
- [4] Item 304.05, Type 4, material shall be placed to final grade before paving, in a manner which minimizes segregation and shall be approved by the Superintendent of Highways or his authorized representative.
- [5] If construction equipment or other traffic must ride on the exposed subgrade surface, that surface shall be graded two inches higher than its final grade. Just before placement of the subbase material, that final two inches shall be removed so that no subgrade material appears above its final plan grade. Just prior to placing the pavement courses, the subbase shall be regraded to its final elevation. Gravel subbase material shall not be placed until the entire subgrade has been graded in accordance with the Standard Details.⁴

4. Editor's Note: Said diagrams are included at the end of this chapter.

- (5) Hot, plant-mixed, asphalt concrete base course shall be used to construct a base pavement course in conformance with the New York State Department of Transportation "Standard Specifications Construction and Materials" of January 2, 1990, and all addenda.

(a) Materials:

- [1] Item 403.13 - Asphalt Concrete, Type 3 Binder Course.

Sieve Size Designation	% Passing By Weight	Tolerance %
1 1/2 inch	100	-
1 inch	95 to 100	-
1/2 inch	70 to 90	+/-6
1/4 inch	48 to 74	+/-7
1/8 inch	32 to 62	+/-7
No. 20	15 to 39	+/-7
No. 40	8 to 27	+/-7
No. 80	4 to 16	+/-4
No. 200	2 to 8	+/-2
Asphalt content	%4.5 to 6.5	+/-0.4
Asphalt cement grade	AC-20	
Materials specification number	702-0500	

NOTES:

Mixing and placing temperature range of 250° F. to 325° F.

- [2] Bituminous plant-mixed asphalt concrete shall generally be composed of a mixture of aggregate, filler if required, and bituminous material. The contractor shall formulate and submit to the Superintendent of Highways, or his authorized representative, a job mix formula that satisfies the limits shown above, including the mineral aggregate sources and grade of bituminous material to be used. The aggregate tolerance shall be based on the total weight of the aggregate, and bituminous material tolerances shall be based on total weight of the mix. For additional specifications, refer to NYSDOT Section 401 - Plant Mix Pavements - General, Subsection 401-2, Materials.

(b) Placement:

- [1] The asphalt concrete foundation shall be laid and rolled to a compacted thickness of three inches. The mixture shall not be laid on a frozen or wet surface. Before laying the asphalt concrete foundation, the subbase surface average temperature, taken at three separate locations at least 25

feet apart, shall be at least 40° F. For additional specifications on the mixing plant and construction equipment and procedures, refer to Section 401 - Plant Mix Pavements - General, Subsection 401-3, Construction Details, of the New York State DOT Specifications.

- [2] Upon completion of placement of the base course, core samples shall be taken to verify the depth of materials placed. Locations and number of core samples shall be as determined by the Superintendent of Highways or his authorized representative. Cost for the core samples and reports shall be borne by the owner/developer.
- [3] After acceptance of the base course by the Superintendent of Highways or his authorized representative, placement of the wearing surface shall occur as follows:
 - [a] The base course shall remain uncovered until April 15 if work on the base is completed after September 15. The base course shall be broom cleaned and a tack coat applied prior to placing wearing course (no exceptions).
 - [b] The wearing surface may be placed immediately following the base course if soil tests have been taken and confirmed by a testing lab that the following specifications have been met:
 - [i] Subgrade materials compacted to 90% maximum proctor density.
 - [ii] Subbase materials compacted to 95% maximum proctor density.
 - [c] All frames, grates, valve boxes and manholes shall be constructed at an elevation equal to the finish surface elevation of the base course material. Prior to placement of wearing surface, frames, grates, valve boxes and manholes shall be raised to the final surface elevation of the wearing course in accordance with the Standard Details.⁵
 - [d] Prior to placement of the wearing course, the top surface of the base shall be swept and cleaned with a self-propelled street sweeper. All joints, settlements and cracks shall be filled with wearing surface materials and compacted before approval by the Superintendent of Highways or his authorized representative.
- (6) Hot, plant-mixed, asphalt concrete shall be used to construct wearing courses in conformance with the New York Department of Transportation "Standard Specifications - Construction and Materials" of January 2, 1990, and all addenda.

5. Editor's Note: Said diagrams are included at the end of this chapter.

(a) Materials.

[1] Item 403.1901 - Asphalt Concrete, Type 7F Top Course.

Sieve Size Designation	% Passing By Weight	Tolerance %
1 1/2 inch	100	-
1/4 inch	90 to 100	-
1/8 inch	45 to 70	+/-6
No. 20	15 to 40	+/-7
No. 40	8 to 27	+/-7
No. 80	4 to 16	+/-4
No. 200	2 to 6	+/-2
Asphalt Content	%6.0 to 8.0	+/-0.4
Asphalt cement grade	AC-20	
Materials specification number	702-0500	

NOTES:

Mixing and placing temperature range of 250° F. to 325° F.

[2] For additional specifications refer to NYSDOT 401 - Plant Mix Pavement - General, Subsection 401-2, Materials.

(b) Placement:

[1] The asphalt concrete wearing course widths and thicknesses 1 1/2 inches shall be in accordance with the Standard Details.⁶ These mixtures shall not be laid on frozen or wet surfaces. Before laying the asphalt concrete, the base course surface average temperature, taken at three separate locations at least 25 feet apart, shall be at least 50° F. The wearing course shall be laid and rolled to a compacted thickness of 1 1/2 inches.

[2] For additional specifications, refer to Section 401 - Plant Mix Pavements - General, Subsection 401-3, Construction Requirements, of the New York DOT Specifications.

(7) Bituminous pavers.

(a) The outside (pavement edge) of the screed or strike-off assembly shall be modified to extrude asphalt pavement to the shape detailed by the Typical

6. Editor's Note: Said diagrams are included at the end of this chapter.

Street Section,⁷ forming a mountable curb edge monolithically with each pavement course.

- (b) A minimum one-ton static steel wheeled roller shall be used to obtain satisfactory compaction at the curb edge.
- (8) Tack coat material and construction details shall comply with NYSDOT Specification Section 407 - Tack Coat.

C. Highway crossings.

(1) Open cut method.

- (a) Open cutting of Town roads shall take place only as approved by the Superintendent of Highways.
- (b) In areas where open cutting of the pavement is allowed, it shall be restored as follows:

[1] Backfilling shall consist of NYSDOT Item 304.05, Type 4, gravel placed manually to a point one foot above the top of pipes and thoroughly tamped by use of shovels or similar implements, and brought up evenly on both sides of the pipe. This same gravel material shall be used to the underside of the base course asphalt concrete and shall be placed and mechanically compacted in six-inch layers.

[2] All trench backfill shall be compacted to a minimum dry density of 100% of the maximum density. "Maximum density" is defined as the maximum dry weight density, in pounds per cubic foot, as determined by AASHTO Designation T-99, Method C.

[3] As soon as the trench is backfilled, temporary pavement consisting of a three-inch depth cold-mix asphaltic concrete shall be placed and compacted to grade. Such repairs shall be maintained even with pavement surface until backfill has settled sufficiently to permit restoration of pavement surface. Minimum settling time shall be 30 days.

D. Bituminous pavement replacement.

- (1) Where trench excavation is in paved areas of streets, construction of a hot-mix bituminous concrete, laid to conform to the original grade and cross-section, shall be required. The grade shall be excavated to the required depth, graded, and rolled to produce a firm foundation. Upon this prepared base, a twelve-inch foundation course of acceptable gravel shall be deposited in a uniform layer, and rolled.
- (2) Upon this gravel base, a three-inch layer of hot, plant-mixed, asphalt concrete shall be placed, raked, and thoroughly compacted. After compacting, a two-inch top course of hot, plant-mixed asphalt shall be placed, raked, and rolled so it will

7. Editor's Note: Said diagram is included at the end of this chapter.

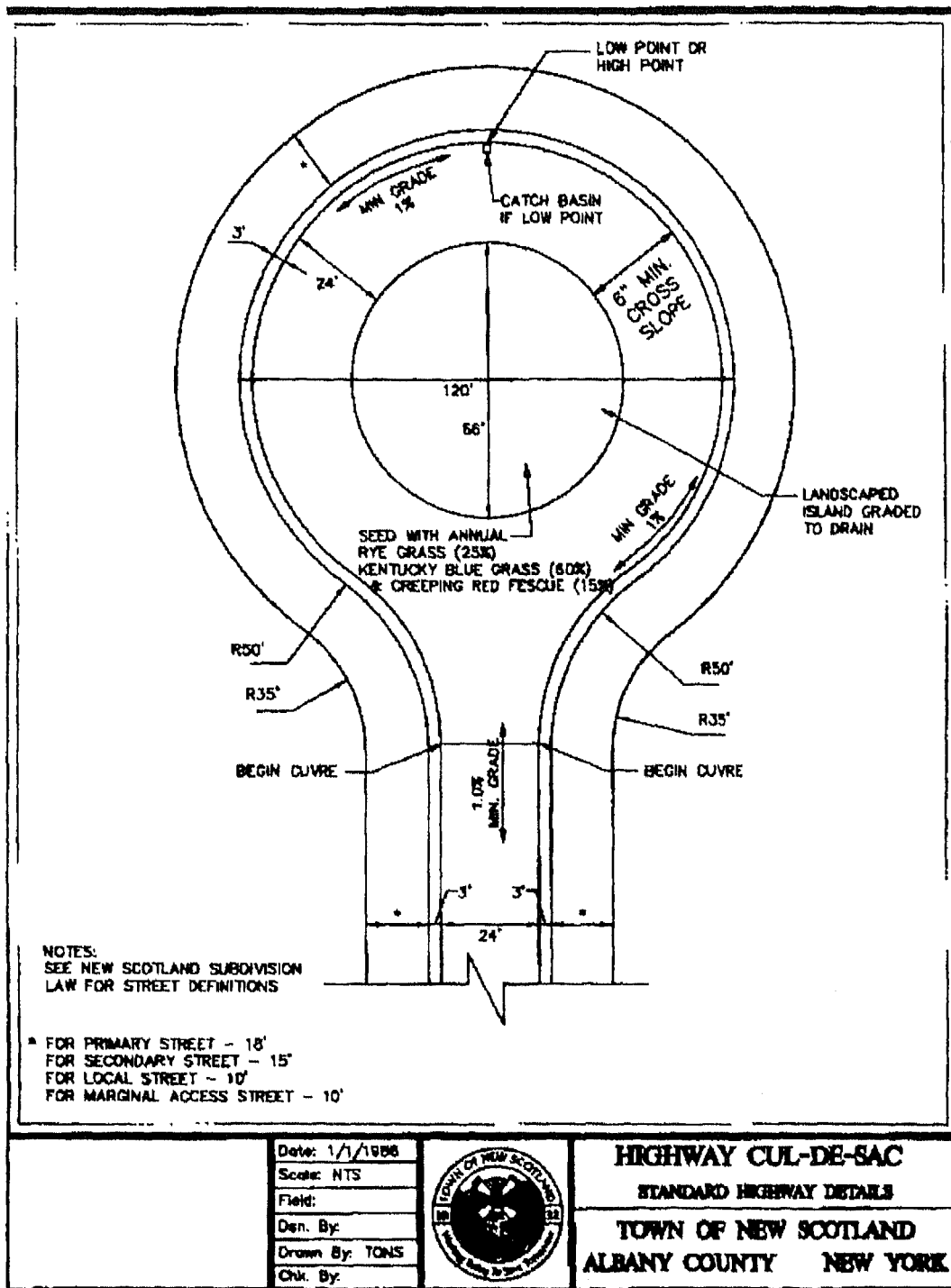
conform exactly to the adjoining pavement on both sides of the trench. This top course shall be rolled with a tandem roller weighing from seven to 10 tons. When compacted, the pavement shall be at the exact surface elevation of the adjoining pavement.

- (3) Before replacing pavement, the existing pavement along the sides of the backfilled trench shall be saw cut at least 1 1/2 feet back from each side of the excavation to straight lines generally parallel to the center line of the trench, or if necessary, at the right angles thereto, to avoid ragged or irregular and unsightly replacement.
- (4) The asphaltic concrete mixture shall be in conformance with Item 403 - Asphaltic Concrete Type 3 Binder Course, and Type 7F Top Course of the New York State Department of Transportation Specifications, latest version.
- (5) On all Town pavement where cutting is across the line of, or longitudinally in the path of, traffic, temporary pavement consisting of a three-inch depth of cold-mix or asphaltic concrete shall be placed as soon as backfilling is completed. Such repairs shall be maintained by the contractor flush with the adjacent pavement surface until the backfill has settled sufficiently to permit permanent restoration of the pavement surface. Minimum settling time shall be 30 days.

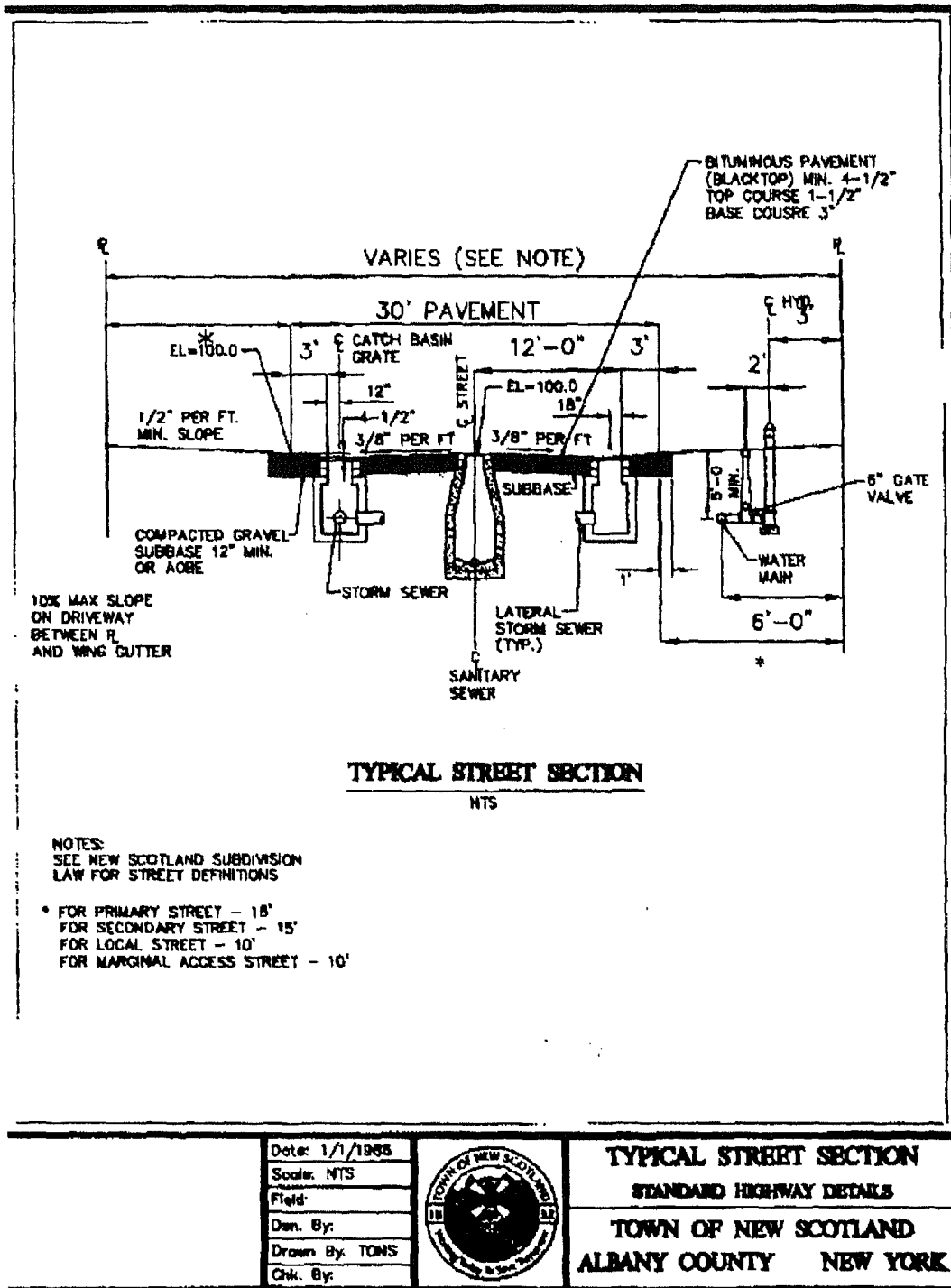
§ 110-4. Penalties for offenses.

In addition to any other remedy provided herein or in Chapter 164, Subdivision of Land, any person or persons, associations or corporations committing an offense against this chapter or any section or provision thereof is guilty of a violation and shall, upon conviction thereof, be subject to a fine not to exceed \$250, or imprisonment not exceeding 15 days, or both, for each day the violation exists.

HIGHWAY SPECIFICATIONS



HIGHWAY SPECIFICATIONS



Chapter 116

JUNK AND JUNK VEHICLES

§ 116-1. Legislative findings and intent.

§ 116-2. Definitions and word usage.

§ 116-3. Storage of junk vehicles prohibited.

§ 116-4. Deposit of junk prohibited.

§ 116-5. Notice.

§ 116-6. Presumption of violation.

§ 116-7. Enforcement.

§ 116-8. Penalties for offenses; remedies.

[HISTORY: Adopted by the Town Board of the Town of New Scotland 7-5-1984 by Ord. No. 12; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Dumps — See Ch. 89.

Zoning — See Ch. 190.

§ 116-1. Legislative findings and intent.

- A. The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof, and junk and other waste materials on private and public property within the Town of New Scotland is hereby declared to be detrimental to the public health and welfare of the residents of the Town of New Scotland, aesthetically unattractive, and detracts from the enjoyment of the environment by the said residents, tends to depreciate neighborhood property values and is an infringement of the enjoyment of their properties and homes by neighboring residents. The purpose of this chapter is to prohibit the placement, storage or abandonment of vehicles which, because of mechanical defects, are inoperable and unsightly. In order to accord owners of vehicles which are damaged or inoperable a reasonable time to restore them to operating condition or to arrange for other disposition of them, and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles out of doors, the prohibition does not apply until the vehicle has been situate of the property for in excess of 30 days.
- B. The further purpose of this chapter is to prohibit the placement or accumulation of vehicle parts, or junk of any kind, out of doors on private or public property. A ten-day grace period is considered to be a reasonable time to allow for the removal and disposition of junk.

§ 116-2. Definitions and word usage.

- A. When terms are not defined in this chapter and are defined in other codes, laws or ordinances of the Town of New Scotland, such terms shall have the meanings ascribed to them as in those codes, laws or ordinances. When terms are not described through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

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

JUNK — Old or scrap copper, brass, lumber, wood, rope, rags, batteries, paper, trash, rubber debris, waste or junked, scrapped, ruined, dismantled or wrecked vehicle parts, iron, steel and other old or scrap ferrous or nonferrous material, and construction and demolition debris.

JUNK VEHICLE — Any vehicle which for any reason is incapable, with out repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power or is incapable without repair of being drawn or towed in the manner originally intended, if it is a vehicle originally designed to be towed or drawn from behind and internally powered vehicle, and as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions such as, but not limited to, the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows; absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof, tailgate); physical damage (such as dents, cracks, scrapes, holes) to component parts of the vehicle; absence of interior components (such as seats, dashboard, interior door moldings, etc.)

PERSON — One or more individuals, a partnership, corporation, association or any other legal entity.

VEHICLE —

- (1) Any means of transport or conveyance having wheels originally designed and manufactured:
 - (a) To be moved or propelled by any power other than muscular power; or
 - (b) To be drawn or towed.
- (2) A vehicle shall include but not be limited to automobiles, trucks, trailers, motorcycles, motorbikes, buses.

§ 116-3. Storage of junk vehicles prohibited.

No person shall within the Town of New Scotland deposit, place, store or abandon on any real property, or permit, cause or consent to be deposited, placed, stored or abandoned on real property owned or occupied as a tenant by such person, a junk vehicle for a period of longer than 30 days after receipt by such person of the notice prescribed by § 116-5 unless such vehicle is completely enclosed in a garage or other similar structure. This chapter shall not apply to the storage, placement, deposit or abandonment of junk vehicles in junkyards as defined in, and duly operating in accordance with, the provisions of the ordinance of the Town of New Scotland providing for the regulation and licensing of automobile junkyards within the Town and its amendments as may be enacted from time to time. Nor shall this chapter apply to the storage, placement, deposit or abandonment of up to two junk vehicles when neither junk vehicle is visible from any of the following locations:

- A. A public road;
- B. A residence or any point six feet or less above the ground and within 15 feet of a residence; or
- C. A private road used for ingress and egress.

§ 116-4. Deposit of junk prohibited.

No person shall, within the Town of New Scotland, deposit, store, accumulate or abandon upon any real property, nor cause consent or permit to be deposited, stored, accumulated or abandoned upon any real property owned or occupied as a tenant by such person outside of an enclosed structure or a securely covered garbage or trash container, any junk for a period longer than 10 day after receipt by such person of the notice prescribed by § 116-5. This section shall not apply to lawn, garden, nursery or agricultural refuse or waste nor to disposal in the Town of New Scotland Sanitary Landfill in accordance with the rules, regulations and ordinances of the Town pertaining thereto.¹

§ 116-5. Notice.

After the enforcement officer has determined that a junk vehicle or junk is stored, deposited, placed or abandoned on a parcel of property, he shall serve a written notice thereof on the occupant or owner of the property, or on the owner of the junk vehicle, or to both such persons, as the case may be, directing the removal of such junk vehicle within 30 days, or the removal of such junk within 10 days, after receipt of such notice. The notice shall be sent by certified mail, return receipt requested, or by personal service. Possession by the enforcement officer of the US Postal receipt indicating delivery of the notice to the addressee, whether the receipts are signed by the addressee or by a third party, shall constitute conclusive proof of the receipt by the addressee of the said notice. The thirty-day period or the ten-day period, as the case may be, shall commence on the date of delivery of the notice as indicated on the postal receipt. If the notice is personally served, the respective thirty- and the ten-day periods shall commence running on the date of the personal service of the notice.

§ 116-6. Presumption of violation.

There shall be a presumption that a person who has received the notice prescribed by § 116-5, has stored, deposited or placed, or abandoned, or caused, consented or permitted the deposit, storage, abandonment, or placement of the junk vehicles or junk described in the said notice.

§ 116-7. Enforcement.

This chapter may be enforced by the Building Inspector of the Town of New Scotland, as follows:

1. Editor's Note: See Ch. 89, Dumps and Dumping.

- A. 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 such enforcement procedures as may be authorized by law.

§ 116-8. Penalties for offenses; remedies.

- A. Any person who shall violate any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Chapter 155

SEWERS

ARTICLE I Legislative Intent

§ 155-1. Adoption of general rules and specifications.

ARTICLE II Scope; Standards

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ARTICLE VI Permits

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ARTICLE IX Drainage

§ 155-19. Applicable standards.

§ 155-20. Submittals.

§ 155-21. Drainage easements.

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ARTICLE X Construction Methods

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ARTICLE XI
Sewer Systems

§ 155-26. Design standards.

§ 155-27. Materials.

§ 155-28. Construction methods.

§ 155-25. Applicable standards.

[HISTORY: Adopted by the Town Board of the Town of New Scotland 7-11-2001 by L.L. No. 6-2001; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 164.

Water use — See Ch. 182.

ARTICLE I
Legislative Intent

§ 155-1. Adoption of general rules and specifications.

For the proper use and services of all sewer districts owned, operated and maintained by the Town of New Scotland, and all sewers constructed in the Town of New Scotland, the following general rules and specifications are hereby adopted.

ARTICLE II
Scope; Standards

§ 155-2. Applicability.

- A. The following specifications apply to all storm and sanitary mains and laterals installed on public or private property connected directly or indirectly to the Town of New Scotland sewer system, any system served by agreement within the Town of New Scotland and any storm drainage system within the Town of New Scotland. All plans and specifications for such sewer mains shall be reviewed and approved by the Superintendent of Highways, the Sewer Inspector, Town-designated Engineer or other duly authorized officials of the Town of New Scotland.
- B. Standard Sewer Details of the Town of New Scotland supplement these specifications and shall be considered an integral part hereof.¹
- C. Whenever standards are referenced in these specifications, the latest version of the standard referenced shall be applicable.
- D. Recommended Standards for Wastewater Facilities, Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, supplement these specifications and shall be considered an integral part hereof.

1. Editor's Note: The Standard Sewer Details are site specific and will be provided on an as-needed basis for each project.

ARTICLE III
Terminology

§ 155-3. Definitions and word usage.

- A. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

CONTRACTOR — The party who is employed by the owner to actually construct the sewerage system and/or service lateral.

DISTRICT — Any regularly established "sewer district" or "sewer improvement" and extensions thereof in the Town of New Scotland.

DISTRICT BOUNDARIES — The physical boundaries of districts or improvements as presently established or as may be extended or created from time to time as duly enacted by law.

EASEMENT — An acquired legal right for the specific use of land owned by others.

ENGINEER — A person registered as a professional engineer by the State of New York.

OWNER — An individual, firm, company, association, society, corporation or group such as a developer, who initiates and pays for the installation of the sewer collection system. In the case of sewer laterals, the owner shall mean the applicant who applies for sewer service.

PERSON — Any individual, firm, company, association, society, corporation or group.

PREFERRED METHOD — Shall generally mean the standard method of installation that shall be used. Methods other than the preferred method may only be used with the approval of the Superintendent of Highways, the Sewer Inspector or other duly authorized official of the Town.

PROPERTY LINE — The edge of a sewer right-of-way in those instances where the sewer service lateral connects to the public sewer main not located on a street right-of-way, and the owner's property line in those instances where the sewer service lateral connects to a public water main located in the street right-of-way.

PUBLIC SEWERAGE — A common sewerage collection main controlled by a governmental agency or public utility.

SEWER DISTRICT — Any sewer district owned, maintained and operated by the Town of New Scotland.

SEWER INSPECTOR — The duly authorized representative for the Superintendent of Highways.

SEWER LATERALS — A pipe six inches in diameter or smaller conveying sewage from a building.

SEWER MAIN — Any pipe bigger than six inches in diameter collecting and conveying sewerage as part of a system.

STANDARD DETAILS — Supplements to these specifications and an integral part thereof, located in the Detail Section of Chapter 182, Water Use, of the Code of the Town of New Scotland, or as provided by the Town of New Scotland.

SUPERINTENDENT OF HIGHWAYS — The legally elected Superintendent of Highways for the Town of New Scotland. Whenever the words "ordered," "directed," "required," "approved," or "accepted" or variations thereof are used, they shall refer to action by the Superintendent of the Town of New Scotland Highway Department, or his designated representative(s), unless otherwise specified.

TOWN ENGINEER and/or DESIGNATED ENGINEER — The legally appointed or engaged Engineer by the Town of New Scotland to oversee the design and/or construction of the sewer system, or other sewer work, and who is responsible to certify the same.

UNIT — As described below:

Description	Unit Value
Single-family dwelling	1 unit
Multiple-family dwelling	1 unit per family
Apartments	1 unit per apartment
Business establishments:	
Water use less than 100,000 gallons per year	1 unit
Water use greater than 100,000 gallons per year	1 unit per 100,000 gallons or part thereof
Schools and institutions:	
Water use less than 100,000 gallons per year	1 unit
Water use greater than 100,000	1 unit per 100,000 gallons or part thereof
Vacant lot	0.4 units

B. Word usages. "Shall" is mandatory; "may" is permissive.

ARTICLE IV Power and Authority of Town Inspectors

§ 155-4. Right of entry for inspection and testing.

The Superintendent of Highways, the Sewer Inspector, and other duly authorized officials of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation and testing. Where a user has security

measures in force, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Town will be permitted to enter without delay.

§ 155-5. Observance of safety rules.

While performing the necessary work on private properties referred to in §§ 155-6 and 155-11B, the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town shall observe all safety rules applicable to the premises.

§ 155-6. Entry on private property to observe compliance of facilities.

The Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purpose of but not limited to inspections, observation, measurement, sampling, repair, and maintenance of any portion of the sewer service facilities lying within an easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 155-7. Enforcement.

This chapter shall be enforced by the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town. The Town may terminate or cause to be terminated sewer service to any premises if a violation of any provision of this chapter has occurred.

ARTICLE V

General Connection and Installation Requirements

§ 155-8. Costs to be borne by owner; indemnification of Town.

All costs and expenses incidental to the installation and connection of the sewer lateral shall be borne by the property owner(s). These costs shall include attorneys' fees, legal fees, filing fees, engineering fees, etc. The owner(s) shall indemnify the sewer district and the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer lateral. Also see § 155-9.

§ 155-9. Where no sewer service lateral has been supplied.

- A. In the case where a sewer lateral has not been provided at the property line (or permanent easement boundary), the property owner(s) will be required, if and when a sewer lateral connection becomes necessary, to construct at his own expense such a sewer lateral from the public sewer main to his property.

- B. In all cases, it will be the property owner's responsibility to extend and construct at his own expense the sewer lateral across his property to a proper point of connection with the public sewer main.
- C. Any separate and independent sewer lateral must be provided for every building. Any exceptions must first be approved by the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town.

§ 155-10. Connection to existing public sewer main.

Except in rare occasions, in newly formed sewer districts the sewer main will be tapped and a sewer lateral will be extended to the property line. However, in existing sewer districts it may sometimes be necessary for the property owner(s) to connect to the existing public sewer main and construct the entire sewer lateral from the sewer main to the building.

§ 155-11. Inspection and testing.

- A. When the sewer lateral is installed and completed, but prior to refilling the trench, the contractor performing the work shall notify the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town so that the installation can be inspected and approval given to refill the trench. Trenches refilled prior to inspection will have to be reopened by the contractor at his own expense. The contractor may also be subject to a penalty. These refilling regulations also apply to property owners installing their own sewer lateral connection.
- B. In the discharge of duties, and for the purpose of sewer inspection, properly identified representatives of the sewer district are legally authorized to enter any premises or property in the Town of New Scotland.

§ 155-12. Installation of sewer laterals.

- A. Who can make installations and requirements.
 - (1) No person shall make any attachment with the sewer mains of the Town of New Scotland sewer districts nor may make any repairs, additions to or alterations with the sewer/lateral lines unless he be authorized by the Superintendent of Highways, the Sewer Inspector, or other duly authorized officials of the Town and a written permit is issued.
 - (2) A separate sewer lateral shall be required for each dwelling or commercial building as specified under § 155-9C of this chapter. In case of multiple occupancy the size and number of separate service lines required shall be approved by the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town.
 - (3) Any existing consumer in violation of these requirements may be notified, on 30 days' written notice from the district, to conform to this regulation.

- B. Public safety. When any street, public or private grounds shall be opened for the purpose of making a connection with the lines or for laying any sewer lines or fixtures, public safety and convenience shall be duly regarded and the street or public place shall be restored to its original condition as soon as possible; and whenever a trench is opened, bridges for the safety and convenience of the public shall be provided, and if left open at night such excavations and bridges shall be guarded with barricades and lights shall be displayed to warn and protect the public. The applicant must obtain from the Town Highway Superintendent, Albany County Highway Department or New York State DOT the required street permit.
- C. Ownership.
- (1) At his own expense, the applicant shall install from the sewer main to the building on the premises, a sewer lateral line and sewer connections, all to be approved by the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town.
 - (2) The sewer lateral line and connections from the sewer main to the building shall at all times remain the sole property of the applicant, in whom title thereto shall vest. All sewer lateral lines installed shall have no bends between the sewer main and the building foundation unless otherwise approved.
- D. Maintenance and replacement.
- (1) The owner, at his own expense, will maintain and protect from freezing and when necessary replace such service line and service connections, specifications for which are contained in Subsection E of this section.
 - (2) Should a leak occur in a sewer lateral line, the owner shall forthwith cause same to be repaired at his own expense. Should the owner fail to effect such repair after two days' written notice from the Town, the sewer district will cause the sewer lateral to be repaired and shall levy all costs therefor to the owner.
- E. Sewer lateral specifications.
- (1) All sewer laterals shall have a minimum cover necessary to maintain its integrity and in no case will any sewer line be allowed to be laid in any water trench. Sewer lateral lines shall be installed at a horizontal distance of 10 feet from all water lines and at a vertical distance of 18 inches from water lines, preferably below water lines.
 - (2) All sewer lateral lines shall not be less in size than six-inch inside diameter PVC SDR 35 pipe or service weight cast iron. The Town reserves the right in all cases to stipulate the size and type of service lines to be used.
- F. Sewer lateral connection specifications and rules.
- (1) Sewer lateral connections to the sewer main shall be made by installing a wye fitting in the sewer main. Tapping saddles of any kind will not be permitted.

- (2) If a building is razed, abandoned or moved, it will be the responsibility of the owner or authority which requires such razing, moving or abandonment to notify the Superintendent of Highways, the Sewer Inspector or other duly authorized official of the Town that the sewer lateral is being discontinued. The owner shall discontinue the sewer lateral at the property line, by capping the lateral.

ARTICLE VI

Permits

§ 155-13. Permit required to connect existing sewer main or sewer service lateral.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public lines thereof without a written permit from the Town. Failure to obtain a permit may result in a penalty as specified under §§ 155-16 and 155-17 of this chapter. Permits expire one year from date of issue.
- B. Before connecting to an existing sewer main or a sewer lateral, the owner shall contact the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town notifying him of the work to be done. He shall obtain a written permit as required. No connections shall be made to the public sewer main except in the presence of the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town.
- C. Whenever it is necessary to work within any public right-of-way a bond will be required. Before a permit may be issued for work in any public right-of-way, the person applying for such permit shall have executed into the Town of New Scotland and deposited with the Town Clerk, a corporate surety in the sum of \$1,000, except where a larger amount is required by the Town, conditioned that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or ordinances of the Town of New Scotland. This bond shall state that the person will indemnify and save harmless the Town of New Scotland against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with the work or excavating for same. Such bond shall remain in force and must be executed for a period of one year after completion of work except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

§ 155-14. Classes of sewer permits; connection fees.

- A. Three types of sewer permits will be issued. These will be for residential, nonresidential, and repair/reconnection/disconnection. The owner or his agent shall make application on a special form furnished by the sewer district. The permit shall be supplemented by any plans, specifications and other information considered pertinent in the judgment of the Superintendent of Highways, the Town Engineer, the Sewer Inspector or other duly authorized officials of the Town.

B. The permit fees including inspection are as follows:

- (1) Residential sewer lateral connection: \$50.
- (2) Nonresidential sewer lateral connection: \$100, minimum.
- (3) Repair/reconnection/disconnection: \$35.

ARTICLE VII

Rules and Regulations for Sewer Use

§ 155-15. Service requirements; interruption of service.

- A. Sewer service may be discontinued by the Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town for any one of the following reasons:
- (1) For use of discharge of waste other than household sewage or waste other than as represented in customer's applications;
 - (2) For nonpayment of bills for sewer service or other services rendered by the district in accordance with these rules and regulations;
 - (3) For violation of the rules of the Town of New Scotland or the sewer district as set forth in its rules and regulations;
 - (4) For failure to repair leaky lateral line after two days' notice.
- B. Under no circumstances shall chemicals or any other materials that may impair the sewerage system or other system equipment be discharged into the sewerage system.
- C. The district undertakes to use reasonable care and diligence to provide a constant sewer collection system for customers, but reserves the right, at any time, after giving notice, to interrupt service for the purposes of making repairs or extensions, or for other purposes, and it is expressly agreed that the district shall not be liable for a deficiency or failure in maintaining sewerage flows for any cause whatsoever, nor for any damage thereby.
- D. The Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town shall have the right in periods of emergency to restrict the use of sewerage systems to prohibit such use entirely. Notice of such restriction shall be published by the Superintendent of Highways, the Sewer Inspector, or other duly authorized officials of the Town in the official Town newspaper or by other appropriate means.

ARTICLE VIII

Violations and Penalties

§ 155-16. Penalties for offenses.

Any conviction under this chapter shall be deemed a violation, and every conviction of a violation of any provision of this chapter shall be punishable by a fine of not more than \$250

or by imprisonment of not more than 15 days, or both such fine and imprisonment. For the purpose of conferring jurisdiction upon courts and judicial officers generally, charges under this chapter shall be deemed violations.

§ 155-17. Assessment in addition to penalty.

In addition, a penalty may be assessed, not exceeding \$500 for each violation, to be used for and recovered in a civil action brought in the name and for the benefit of the sewer district within the Town of New Scotland where the violation occurred.

§ 155-18. Judicial proceedings to prohibit violations.

The Superintendent of Highways, the Sewer Inspector or other duly authorized officials of the Town are authorized to issue appearance tickets and to initiate whatever appropriate judicial proceedings are deemed necessary to prohibit violations of this chapter.

**ARTICLE IX
Drainage**

§ 155-19. Applicable standards.

The design, material and construction methods shall conform to the applicable sections of the current editions and subsequent revisions of the following documents:

- A. Design and Construction of Sanitary and Storm Sewers. Manual of Practice No. 9, Water Pollution Control Federation.
- B. Technical Release No. 55 (TR-55), Soil Conservation Service (SCS).
- C. New York State Guidelines for Urban Erosion and Sediment Control (NYSGUESC), Soil and Water Conservation Society.

§ 155-20. Submittals.

Complete plans and drainage calculations shall be submitted, including drainage basin maps of predevelopment and postdevelopment stormwater runoff and hydraulic calculations for all detention basins, pipes and other drainage structures as required in Chapter 164, Subdivision of Land, of the Code of the Town of New Scotland.

§ 155-21. Drainage easements.

- A. Drainage easements or rights-of-way shall be provided for all drainageways and structures within the development and, when required, downstream of the development.
- B. Drainage easements shall be a minimum width of 30 feet and wider where required.

§ 155-22. Design standards.**A. Methodology.**

- (1) Calculations shall be done for predevelopment and postdevelopment runoff for the ten-, twenty-five-, and one-hundred-year storm events.
- (2) SCS TR-55 or TR-20 shall be used for all calculations, except that the Rational Method may be used for sites of less than two acres.
- (3) Calculations shall consider the total upstream drainage area as potentially developed and all downstream structures and drainage facilities.
- (4) Peak runoff.
 - (a) The postdevelopment peak runoff from the site may not be increased from the predevelopment amount during a twenty-five-year storm event.
 - (b) Detention basins or other storage facilities shall be used as required to store the additional runoff from the development.
 - (c) An emergency spillway shall be provided for the one-hundred-year storm.
 - (d) An outlet structure shall be provided to minimize sedimentation and plugging and achieve the designed outflow.
 - (e) The requirement for storage facilities can be waived in special circumstances if it can be shown that no downstream property or structures will be impacted. The total potential build-out of the watershed must be considered for a waiver to be granted.

B. Drainage pipe and structures.

- (1) The design storm shall be:
 - (a) Twenty-five-year for general site work, local roads and collector roads.
 - (b) One-hundred-year for critical structures which may impact downstream property.
- (2) The minimum pipe slope shall be 0.5%.
- (3) Ditch slopes greater than 5% and where velocity exceeds five feet per second shall be protected with stone lining.
- (4) The minimum pipe size shall be 15 inches.
- (5) The maximum length of surface flow on streets and ditches shall be 400 feet.
- (6) Stone apron on filter fabric, minimum size 10 feet by 10 feet, shall be provided at all pipe inlets and outlets and points of discharge. Size and details shall be in accordance with NYSGUESC.
- (7) Flared pipe end sections shall be provided.

- (8) Pipes and structures in traffic areas shall accommodate HS-20 loading.
- (9) Sedimentation control, sumps, trashracks and other measures shall be provided as required to minimize system maintenance and prevent failure.

C. Subsurface drainage.

- (1) In areas of high groundwater or springs, measures shall be taken to control subsurface water so as not to impact building basements and foundations, on-site wastewater systems or other structures or facilities.
- (2) Transverse and longitudinal subsurface drains and underdrains shall be provided within the street right-of-way to fully drain the road base.
- (3) Stormwater facilities/capacity shall be provided to accommodate roof and foundation drains. Drains shall be connected into storm manholes, catch basins or junction boxes. Under no circumstances shall storm water or mains conveying storm water be connected to sanitary sewer systems.

D. Surface drainage.

- (1) Proper grading and drainage facilities shall be provided to accommodate site drainage, including runoff from upstream areas, in a controlled manner without adverse impact to or flooding of on-site or downstream buildings, roads, wastewater systems or other facilities.
- (2) Additional temporary drainage measures shall be provided as required to accomplish soil erosion and sedimentation control during construction operations.

§ 155-23. Materials.

A. Drainage pipe shall be as follows:

- (1) Smooth-lined corrugated polyethylene pipe: AASHTO M294-ADS(r) N-12 or equivalent.
- (2) PVC SDR 35, ASTM 3034.
- (3) Ductile iron with bituminous seal coating, AWWA C151, C111 and C104.

B. Subsurface drains shall be as follows:

- (1) Fabric: Trevira Spunbound Type 1114 or equal.
- (2) Stone: NYSDOT Filter Stone 703-02 No. 1 and No. 2 stone.
- (3) Corrugated polyethylene pipe: ADS(r) 401 or 601 or equal.

C. Underdrains shall be as follows:

- (1) Perforated PVC SDR 35: ASTM D3034.
 - (2) Perforated corrugated metal pipe with bituminous coating: NYSDOT Section 707-07.
- D. Catch basins and manholes shall be as follows:
- (1) Precast concrete manhole: ASTM 478.
 - (2) Mortar: ASTM C270.
- E. Frame and grates shall be NYSDOT Section 715.
- F. Stone protection shall be NYSDOT Section 620-02, dry riprap, medium-weight stone greater than 100 pounds.

ARTICLE X Construction Methods

§ 155-24. Regulations.

- A. Drainage structures and facilities shall be staked out prior to construction.
- B. Pipe and ditches shall be installed to the designed line and grade.
- C. Pipe, catch basins and manholes shall be installed in accordance with NYSDOT Section 604-3.
- D. Underdrains with filter stone and geotextile fabric shall be installed in accordance with NYSDOT Section 6.05 and the recommendations of the geotextile manufacturer.

ARTICLE XI Sewer Systems

§ 155-25. Applicable standards.

The design, material and construction methods shall conform to the applicable sections of the current editions and subsequent revisions of the following documents:

- A. Recommended standards for Wastewater Facilities, Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, supplement these specifications and shall be considered an integral part hereof.
- B. Part 75-A, New York State Department of Health.
- C. Standards for Waste Treatment Works, Institutional and Commercial Sewerage Facilities, New York State Department of Environmental Conservation.
- D. Design and Construction of Sanitary and Storm Sewers, Manual of Practice No. 8, Water Pollution Control Federation.

§ 155-26. Design standards.**A. Public sewer systems.**

- (1) Sites within or adjacent to an existing or proposed future sewer district as shown on the Official Map or within 1,000 feet of public sewers shall be served by public sewers. Any individual system abandoned as a result thereof shall be properly abandoned by pumping out, and crushing/filling of septic tanks. Connections to new public sewers shall be made within 60 days of the availability of the public sewer.
- (2) The applicant shall pay for the cost of extending the sewer district and facilities to connect to the existing system.
- (3) The extension of facilities can be waived in specific instances where economic hardship and suitable alternative methods of sewage disposal can be demonstrated.

B. Community sewer system.

- (1) Community wastewater treatment and collection systems shall be provided for all sites with a design wastewater flow of greater than 15,000 gallons per day within any major aquifer and for all sites serving 50 or more housing units.
- (2) Subsurface discharge is preferred over surface discharge.
- (3) Surface discharge may be allowed only when no alternatives are available and the assimilative capacity of the stream is considered under low flow (MA7Q10) conditions.
- (4) Wastewater treatment systems shall be acceptable to the Town Engineer and shall comply with the Recommended Standards for Wastewater Facilities and all applicable New York State Department of Environmental Conservation and Environmental Protection Agency regulations.
- (5) Upstream and downstream monitoring wells shall be provided on a case-by-case basis for subsurface discharge systems, with testing being done quarterly and reported to the Town.
- (6) All copies of laboratory test results shall be provided to the Town for nonmunicipal facilities.

C. On-site wastewater treatment systems.

- (1) Where public sewers or community systems are not feasible, on-site wastewater systems will be considered, provided that suitable site conditions exist.
- (2) System designs shall be approved by the Albany County Department of Health.
- (3) The adequacy of existing systems shall be verified prior to any expansion of site facilities, changes in use, or issuance of a building permit.
- (4) Dry sewers shall be required on all major subdivisions, unless waived by the Planning Board.

(5) Appeal.

- (a) Any person or entity aggrieved by a determination of the Planning Board regarding the waiver of the dry sewer requirement under this chapter may appeal the Planning Board's decision to the Town Board for further consideration by filing of a notice of appeal with the Town Clerk within 30 days of the filing of the decision of the Planning Board denying such a waiver. The Town Board shall consider whether the applicant has suffered an undue hardship as a result of the denial of a waiver and may exercise its discretion using all relevant factors.
- (b) An appeal to the Town Board must be made within the thirty-day period following the filing of Planning Board decisions denying a waiver, except that any application for a waiver which has been decided in the 12 months prior to the date of this subsection may be taken by filing a notice of appeal with the Town Clerk within the thirty-day period following the effective date of this subsection.

D. Discharges other than domestic wastewater. Industrial and nondomestic wastewater discharges may be allowed only after careful review on a case-by-case basis. Pretreatment may be required prior to connection to any private or public sewer systems. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any liquid or vapor having a temperature higher than 150° F. (65° C.).
- (2) Any waters or wastes which contain grease or oil or other substance that will solidify or become discernibly viscous at temperatures between 32° F. and 150° F.
- (3) Any waters or wastes containing fats, wax, grease, or oils, whether emulsified or not, exceeding an average of 50 parts per million (417 pounds per million gallons) other soluble matter.
- (4) Any gasoline, benzene, naphtha, fuel oil, or mineral oil or other flammable or explosive liquid, solid, or gas.
- (5) Any noxious or malodorous gas as hydrogen sulfide, sulfur dioxide, or nitrous oxide or other substance, which either singularly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
- (6) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the Highway Superintendent.
- (7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshing, entrails, lime slurry, lime residue, cannery waste, bulk solids, or any other viscous substance capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewage system.

- (8) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewerage system. Free acids and alkalis must be neutralized at all times, within a permissible pH range of 6.5 to 9.5.
- (9) Any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the Highway Superintendent in compliance with applicable state or federal requirements.
- (10) Any waters or wastes that for a duration of 15 minutes has a concentration greater than five times that of "normal" sewage as measured by suspended solids and BOD and/or which is discharged continuously at rate exceeding 1,000 gallons per minute except by special permit.
 - (a) Normal sanitary sewage shall be construed to fall within the following ranges at the effluent of the industrial plant in question.

Constituents	Permissible Range
Suspended solids	180 to 350 ppm
BOD	140 to 300 ppm
Chlorine requirements	5 to 15 ppm

- (11) Any stormwater, roof drains, spring water, cistern or tank overflow, footing drain, or the contents of any privy vault, septic tank or cesspool, or the discharge of effluent from any air-conditioning machine or refrigeration unit.
- (12) Any waters or wastes containing a toxic or poisonous substance, high BOD or chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters. Such toxic substances shall be limited to the average concentration listed hereinafter in the sewage as it arrives at the plant and at no time shall the hourly concentration at the plant exceed three times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration of sewage by the Highway Superintendent and Town Engineer.

Limits of Toxic Substances In Sewage

Substance	Limit
Iron, as Fe	0.5 ppm
Chromium, as Cr (hexavalent)	1.5 ppm
Copper, as Cu	0.3 ppm
Chlorine requirements	15.0 ppm
Phenol	1.0 ppm
Cyanide, as CN	0.17 ppm

Limits of Toxic Substances In Sewage

Substance	Limit
Cadmium, as Cd	0.5 ppm
Zinc, as Zn	0.5 ppm
Nickel	1.0 ppm

- E. Gravity collection systems. Gravity sewer systems shall be provided unless not feasible.
- F. Pump stations and force mains.
- (1) Central pump stations and force mains shall be provided where gravity systems are not feasible.
 - (2) Pump stations shall be designed by a licensed professional engineer in accordance with the Recommended Standards for Wastewater Facilities, and New York State Department of Environmental Conservation standards, including provisions for emergency power.
 - (3) A remote alarm system shall be provided to alert maintenance people of system failure.
- G. Ownership, operation and maintenance.
- (1) All community sewer systems shall be owned and operated by the Town. The applicant must make provisions to own and operate the system during previously read: the one-year waiting period for acceptance as discussed in § 188-30, Acceptance of improvements.any waiting period for acceptance.
 - (2) For all community wastewater systems and pump stations three complete operation and maintenance manuals shall be submitted, including:
 - (a) As-built drawings.
 - (b) Equipment lists.
 - (c) Instruction manuals.
 - (d) Spare parts list.

§ 155-27. Materials.

A. Sewer pipe shall be as follows:

- (1) PVC SDR 35: ASTM D3034.
- (2) Ductile iron pipe, double cement lined with bituminous seal coating: AWWA C151, C111 and C104.

B. Manholes shall be as follows:

- (1) Precast concrete manhole: ASTM C478.
 - (2) Mortar, Type M: ASTM C270.
 - (3) Frames and covers: NYSDOT Section 715.
- C. Pump stations. Pump stations shall be wet-well-mounted pump stations as manufactured by Smith and Loveless or an approved equivalent.
- D. Force mains shall be as follows:
- (1) PVC SDR 21: ASTM D2241 for heads up to 90 feet.
 - (2) PVC SDR 26: ASTM D2241.
 - (3) PVC Schedule 40: ASTM D1785.
 - (4) Ductile iron pipe, double cement lined with bituminous seal coating: AWWA C151, C111 and C104.

§ 155-28. Construction methods.

- A. Stakeout. Sewer systems shall be staked out prior to construction.
- B. Pipe installation.
- (1) Sewer pipe shall be installed to line and grade.
 - (2) Metallic warning tape shall be installed 12 inches above all pipe.
- C. Testing.
- (1) Pipe shall be tested as follows:
 - (a) Deflection testing.
 - (b) Low-pressure air testing.
 - (c) Corroborative infiltration/exfiltration tests on the three sections with greatest air loss.
 - (2) These tests are to be performed and witnessed prior to connection between the house services and the system. Testing shall follow recommendations of UNI-BELL.
 - (3) Infiltration testing. Infiltration testing is considered an acceptable method of leakage test if the ground water level is above the top of the pipe for the entire length being tested. A weir shall be installed in locations as directed by the Town Engineer and will be used to measure the infiltration. The allowable infiltration shall not exceed 50 gallons per inch of internal pipe diameter per mile per twenty-four-hour day. The minimum length of testing shall be one hour.

- (4) Exfiltration testing. Exfiltration testing will be acceptable only when the groundwater level is suitably low or in dry area. Plugs, caps and branch connections must be secured against blowoff during leakage tests. The maximum allowable exfiltration for any section of pipe between manholes shall be measured and shall not exceed 50 gallons per inch of internal pipe diameter per mile per twenty-four-hour day. The contractor shall provide water and measuring devices. During testing, the maximum internal pipe pressure at the lowest end shall not exceed 25 feet, and the internal head shall be two feet higher than the top of the pipe.
- (5) Low-pressure air testing. All plugs, fittings, gauges and pumping systems required shall be provided by the owner. The pressure drop shall not exceed 0.5 pound per square inch from 3.5 pounds per square inch to 3.0 pounds per square inch in excess of the groundwater pressure above the top of the pipe.
- (6) The duration of the testing shall be taken from Table I - II in accordance with UNI-BELL standard UNI-B-6-90.
- (7) Deflection testing. Sewer lines shall be tested for straightness with a maximum allowable deflection of 7 1/2%. Sections found to be questionable shall be tested by pulling an appropriately sized mandrel through the pipe.
- (8) The contractor shall furnish the correct mandrels for the pipe size being tested, as determined from Table 5-4.03.2. The contractor shall be responsible for furnishing all necessary rope, labor, fittings, etc., in order to conduct the testing.

**Table 5-4.03.2 Specified Mandrel
Size for Pipe Diameter Indicated**

Pipe Diameter (inches)	Mandrel O.D. (inches)
6	5.31
8	7.09
10	8.85
12	10.51
15	12.86
18	15.70
21	18.50
24	20.80
27	23.43

- (9) Acceptance. Any section of the sewer system that does not comply with the requirements of the testing outlined above shall be repaired or replaced at the owner's expense, to meet the requirements of the Town.
- (10) All mechanical systems shall be tested to ensure proper operation within the design parameters prior to placing in service.

Chapter 164

SUBDIVISION OF LAND

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Appendix A

[HISTORY: Adopted by the Town Board of the Town of New Scotland 4-12-1993 by L.L. No. 1-1993; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Highway specifications — See Ch. 110.
Sewers — See Ch. 155.

Zoning — See Ch. 190.

ARTICLE I

General Provisions

§ 164-1. Authority and jurisdiction.

- A. The Town of New Scotland Planning Board has the power and authority to approve plats for subdivision within its corporate limits by virtue of a resolution adopted by the Town Board on the fourth day of May 1962, pursuant to the provisions of Article 16, Chapter 62 of the Consolidated Town Law of the State of New York and as amended thereafter.

- B. The Town of New Scotland Building Inspector is hereby granted the power and authority to approve plats for minor subdivisions within the corporate limits of the Town of New Scotland by virtue of adopted Local Town Law No. 1 by the Town Board on the 12th day of April 1993 and as amended thereafter, provided such approval does not include discretionary interpretations of this chapter, in which case said approval will be passed on by the Inspector to the Town of New Scotland Planning Board for review and approval.
- C. Hereafter, prior to the subdivision of, or boundary line adjustment to, any parcel of land that occurs within the corporate limits of the Town of New Scotland, a subdivision plat shall be submitted to the Town Building Inspector for appropriate distribution and approval. Subdivision approval must be obtained prior to the plat being filed and recorded with the office of the County Clerk.
- D. Pursuant to Municipal Home Rule Law §§ 10 and 22 the Town Board of the Town of New Scotland hereby expressly supersedes all provisions of New York State Town Law § 276 (enacted pursuant to Chapter 964, Section 2, of the Laws of 1972 and as thereafter amended and as the same may hereafter be amended or recodified) and replaces the same with the provisions of this chapter.
- E. Pursuant to Municipal Home Rule Law §§ 10 and 22, the Town Board of the Town of New Scotland hereby expressly supersedes the current provisions of Subdivision 1 of New York State Town Law § 277 (originally enacted pursuant to Chapter 634 of the Laws of 1932 and thereafter amended) and Subdivision 4 of New York State Town Law § 277 (originally enacted pursuant to Chapter 727, Section 2, of the Laws of 1992 and as the same may hereafter be amended or recodified). Such provisions are superseded by §§ 164-12 and 164-13 of this chapter.

§ 164-2. Purpose.

This chapter has been adopted in order to create conditions favorable to the health, safety, morals and general welfare of the citizens of the Town of New Scotland through provision of regulations that will ensure the harmonious development of the community.

§ 164-3. Short title.

This chapter shall be known and may be cited as "The Subdivision Law of the Town of New Scotland."

§ 164-4. Fees.

Subdivision applications shall only be accepted with appropriate application fees as outlined in the Town of New Scotland Fee Schedule, available through the Town Clerk and/or the Building Department.

§ 164-5. 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 chapter, the provisions of such statute, other law or regulation shall be controlling.

ARTICLE II
Procedure for Minor Subdivisions

§ 164-6. Designation of minor subdivision.

A minor subdivision of land is any boundary line adjustment, or subdivision of land into at least two but not more than four lots, parcels or sites which do not require the construction of a new street or public utility or expansion or extension of an existing street or public utility. Any subdivision which involves such improvement or which includes more than four lots shall be considered a major subdivision and shall be subject to the review procedures outlined in Article III, Procedure for Major Subdivisions. A minor subdivision of any parcel of land creating more than a total of four lots within any consecutive three-year period must be deferred to the Planning Board for review in accordance with § 164-13 of this chapter.

§ 164-7. Optional preapplication sketch plan procedure.

Prior to the official submission of any minor subdivision plat as outlined in § 164-9, the subdivider may prepare a sketch plan for informal discussion with the Inspector. Said submission shall not be considered an official subdivision, but shall be for the purpose of establishing in advance, insofar as is possible, the extent to which the proposed subdivision conforms with the design standards of this chapter.

§ 164-8. Optional sketch plan submission requirements.

In the case of a minor subdivision only, acceptable sketch plans shall include the following:

- A. Key map. A key map or location map, showing the location of the proposed subdivision within the Town.
- B. A rough-scale sketch of the proposed subdivision and adjoining properties which displays the following information:
 - (1) Name of the Town and county in which the subdivision is located and name and address of record owner and subdivider;
 - (2) North arrow/point;
 - (3) Date of submission;
 - (4) Map scale;
 - (5) Names of all adjoining property owners;

- (6) The specific boundary of the area to be subdivided;
- (7) Zoning district boundaries, if more than one zoning classification applies to the parcel;
- (8) Existing drainage features (i.e., ponds, rivers, streams, marshes, wetlands and culverts);
- (9) Proposed pattern of lots (including approximate lot width, depth and area);
- (10) All setback and frontage requirements of the appropriate zoning district.

§ 164-9. Procedure for approval of minor subdivision plat.

On reaching conclusions informally as recommended in § 164-7, or otherwise regarding general program and objectives, the subdivider shall cause to be prepared a minor subdivision plat together with other supplementary support material as specified in § 164-10.

§ 164-10. Minor subdivision plat submission requirements.

The following plat and data requirements shall apply only to minor subdivision plats as defined in this chapter:

- A. Two copies of the minor subdivision plat and supplementary support material specified shall be submitted to the Inspector with written application, for acceptance. The Inspector must schedule his review to begin at least 14 days after acceptance of the application.
- B. Key map. A key map showing:
 - (1) The boundary lines of zoning districts, and municipal areas.
 - (2) Proposed subdivision boundary line.
- C. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the lot will be located on the ground and marked by monuments as approved by the Inspector, and shall be referenced and shown on the plat.
- D. 911 Requirements. Lot numbering shall be in compliance with Town of New Scotland 911 designations.
- E. A minor subdivision plat prepared on permanent reproducible medium at a scale of not more than 100 feet to the inch (no larger than 30 inches by 40 inches sheet size), containing the following information:
 - (1) Title block including:
 - (a) Name of subdivision, name of Town and county and name and address of record owner and subdivider;
 - (b) North arrow/point;

- (c) Date of original submission and any subsequent submission(s);
 - (d) Map scale;
 - (e) Name, license number, address and seal of the New York State licensed professional who prepared the drawing and supporting documentation;
 - (f) Names and shared boundary limits of adjacent property owners. Adjacent properties which are a part of a recorded subdivision plat may be identified by the subdivision name.
- (2) Existing site condition to be shown:
- (a) Approximate location of tree masses and other significant natural features;
 - (b) Approximate location of marshes, ponds, streams, or any wetlands including area of cover. (NOTE: Federal- and state-regulated wetlands may require additional field survey verification.);
 - (c) Existing buildings, water mains, culverts, utility lines, hydrants, and other significant man-made features;
 - (d) All existing streets on or within 300 feet of the lot, including name, right-of-way width and pavement width and all existing property lines;
 - (e) All, easements and rights-of-way, and the reasons for their establishment.
- (3) Proposed site conditions:
- (a) The dimensions and area of new lots to the nearest 1/100 of a foot;
 - (b) The location and size of any stormwater management improvements to be constructed, if any;
 - (c) Setback and frontage requirement of the appropriate zoning district;
 - (d) A short environmental assessment form with (part one) project information completed;
 - (e) Such other certificates, affidavits, endorsements or agreements as may be required by the Inspector in the enforcement of this chapter.
- F. List the names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision when deferred to Planning Board.

§ 164-11. Open space in minor subdivisions.

The Town of New Scotland Planning Board has determined that a parkland set-aside for recreation purpose is not practical for minor subdivisions, and consistent with the requirements of Article 16, § 277, of the New York State Town Law and Article IV, § 164-43 of this chapter, a fee in lieu of parkland set-aside will be required for minor subdivision approval. Said fee shall be set forth in the Town of New Scotland Fee Schedule.

§ 164-12. Action on minor subdivision plat by Inspector.

- A. The Inspector, within 45 days from the date of submission of a minor subdivision plat, shall act to approve, disapprove or defer decision to the Planning Board for review and determination. Whenever a plat is not approved, reason for such action shall be explicitly stated. The provisions of this article shall not provide the Inspector with the option of granting conditional approval of any minor subdivision.
- B. The time in which the Inspector must take action on such plat may be extended by mutual consent of the subdivider and the Inspector. Failure of the Inspector to act within such time, absent any mutually agreed extension, shall constitute approval of the plat.
- C. Following initial review by the Inspector of the minor subdivision plat for conformity thereof to this chapter and, absent resolution of any negotiations with the subdivider on changes deemed advisable, the Inspector may defer action on the minor subdivision to the Planning Board for review and decision. Said deferral may include recommendations for conditional approval deemed appropriate by the Inspector for guidance during Planning Board review and determination. The official submittal date to the Planning Board will be considered the date of referral by the Inspector provided such date falls at least 14 days prior to a regularly scheduled Planning Board meeting.
- D. At least once monthly, the Inspector shall provide the Planning Board with a listing of all minor subdivisions approved under the provisions of this § 164-12 during the previous monthly period. A copy shall also be forwarded to the Town Clerk for recordkeeping purposes.

§ 164-13. Action on minor subdivision plat by Planning Board.

- A. The Planning Board, upon deferment by the Inspector, may review and determine appropriate action on any minor subdivision plat.
- B. A deferred minor subdivision plat must be received at least 14 days prior to a regular, scheduled Planning Board meeting in order to be considered officially submitted.
- C. A public hearing shall be held by the Planning Board within 45 days from the date of official submission of the minor subdivision plat to the Planning Board. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. Should a SEQR hearing be required, the review period requirements of 6 NYCRR Part 617 shall supersede the requirements of this section and said hearings shall be held simultaneously.
- D. Within 45 days after the date of the public hearing, the Planning Board shall, by resolution, approve, conditionally approve, or disapprove such minor subdivision and authorize the signing of such plat. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.
- E. In the event that the Planning Board fails to take action within the time prescribed, the plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such

prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Clerk's request.

§ 164-14. Final approval and certification of minor subdivision plat.

- A. Within five days of approval by the Inspector, or in the case of deferment to the Planning Board, of the resolution granting approval by the Planning Board, the plat shall be certified by the Inspector as approved, a copy shall be filed in the office of the Inspector and a copy forwarded to the subdivider, via registered, certified or return receipt mail.
- B. If, upon deferment, the Planning Board elects to conditionally approve the plat, within five days of the resolution granting conditional approval, the plat shall be certified by the Inspector as conditionally approved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such conditions which, when completed, shall authorize the signing of the conditionally approved plat. Upon completion of such requirements the plat shall be signed by the Inspector. The subdivider shall have 180 days to meet the conditions set forth by the Planning Board for plat approval. The Planning Board may extend this time for not more than two additional consecutive ninety-day periods.
- C. If the plat is disapproved by the Inspector, or in the case of a deferment, disapproved by the Planning Board, the subdivider shall be notified in writing by the Inspector of such disapproval. Within five days of such disapproval, the plat shall be certified by the Inspector as disapproved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such reasons for which the plat was disapproved.

§ 164-15. Compliance with state and county regulations.

- A. If said subdivision is located within a distance of 500 feet from any of the following, the subdivision must also be referred to the Albany County Planning Board for its review as required under General Municipal Law § 239-n:
 - (1) The boundary of any city, town or village; or
 - (2) The boundary of any existing or proposed county or state park or other recreation area; or
 - (3) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - (4) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

- (5) The existing or proposed boundary of any county or state land on which a public building or institution is situated; or
 - (6) The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law.
- B. Pursuant to 6 NYCRR Part 617.13 (b) of the New York State SEQRLaw, all minor subdivision reviewed and approved under the purview of the Building Inspector are considered Type II actions and do not require environmental determination or procedures. Approval of a minor subdivision plat deferred to the Planning Board shall not be deemed final until the subdivider has fulfilled all requirements of this chapter, 6 NYCRR Part 617 SEQRLaw and any other appropriate state and county requirements. The time requirements of this section shall be superseded by any time requirements of 6 NYCRR Part 617 SEQRLaw, and if needed, time requirements for any Zoning Board of Appeals review and decisions shall also prevail. No minor subdivision plat, deferred to the Planning Board, may be approved prior to full compliance with 6 NYCRR Part 617 SEQRLaw. After completion of these details and notation to that effect upon the plat, it shall be deemed as having final approval.

§ 164-16. Minor subdivision plat filing requirements.

Within 60 days after final approval and endorsement of the minor subdivision plat, and in compliance with the requirement of Article 9, § 334, of the New York State Real Property Law, the subdivider must file the plat for recording with the County Clerk. One Mylar or linen and one paper copy, properly endorsed, of the approved subdivision shall be filed. Should the final plat not be offered for recording within such period, final approval of the plat shall expire and become null and void.

ARTICLE III
Procedure for Major Subdivisions

§ 164-17. Optional preapplication procedure.

Prior to the official submission of any major subdivision plat discussed in §§ 164-19 and 164-24, the subdivider may prepare a sketch plan for informal discussion with the Planning Board. Except when submitted voluntarily by the subdivider in association with the cluster development procedure in Article VI, this submission shall not be considered an official submission, but shall be for the purpose of establishing in advance, insofar as is possible, the extent to which the proposed subdivision conforms with the design standards of this chapter.

§ 164-18. Optional sketch plan submission requirements.

In the case of a major subdivision only, an acceptable sketch plan shall include the following:

- A. Key map. A key map or location map, showing the location of the proposed subdivision within the Town.

B. A rough-scale sketch of the proposed subdivision and adjoining properties which displays the following information:

- (1) Title block:
 - (a) Subdivision name, name of the Town and county in which the subdivision is located, name and address of record owner(s) and the subdivider;
 - (b) True or magnetic North point and date taken;
 - (c) Date of original submission and each subsequent submission(s);
 - (d) Map scale;
- (2) Names of all adjoining property owners.
- (3) The specific boundary of the area to be subdivided including existing lot lines and easements.
- (4) Zoning district boundaries, if more than one zoning classification applies to the parcel.
- (5) Site conditions:
 - (a) Topographic contours. United States Geological Survey (USGS) and/or New York State Department of Transportation Geological Survey Maps will be acceptable;
 - (b) Existing drainage features (e.g., ponds, rivers, streams, marshes and culverts);
 - (c) Existing utilities, structure, streets and street names;
 - (d) Present and proposed means of sewage disposal, water supply and storm drainage;
 - (e) Tree masses, bedrock outcroppings and other physically limiting and/or visually unique features;
 - (f) Existing easements and lot lines.
- (6) Proposed site conditions:
 - (a) The proposed pattern of lots (including approximate lot width, depth and area);
 - (b) Proposed utilities (including sewer, water, storm drainage, subsurface drains, stormwater and dewatering detention, infiltration and/or retention basins);
 - (c) All setback and frontage requirements of the appropriate zoning district;
 - (d) A written statement addressing how open space and shared facilities will be owned and maintained;

- (e) Proposed street and block layout, with reference to surrounding proposed rights-of-way for access to other land through the subdivided property.

§ 164-19. Major subdivision preliminary plat procedure.

On reaching conclusions informally as recommended in § 164-17, or otherwise regarding general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with any other supplementary support material. Said preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in § 164-20. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of New York State Town Law, and § 164-20 of this chapter except where a waiver of the requirements of this chapter is specifically authorized by the Planning Board.

§ 164-20. Major subdivision preliminary plat submission requirements.

- A. Twelve copies of the preliminary plat and supplementary material specified, shall be submitted to the Inspector with written application for acceptance at least 14 days prior to the Planning Board meeting at which it is to be considered.
- B. The subdivision plat submitted for preliminary plat approval shall be clearly legible on white background drawings.
- C. The preliminary plat shall be on sheets not larger than 30 inches by 40 inches overall. It is recommended that as far as practicable preliminary plat sheets be held to the following overall standards sizes: 17 inches by 22 inches; 22 inches by 34 inches; 24 inches by 36 inches; 30 inches by 40 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, preliminary plats shall be drawn in two or more sections accompanied by a key diagram showing relative location of the sections.
- D. The preliminary plat shall be at scale of not more than 100 feet to the inch. All dimensions shall be shown in feet and in hundredths of a foot. The preliminary plat shall include the following information:
 - (1) Key map. A key map at a scale of one inch equals 800 feet showing the following information for the proposed subdivision and areas extending 200 feet beyond the subdivision:
 - (a) The relationship of the proposed subdivision to the primary and secondary highway system and main intersections; the boundary lines of zoning districts, special districts and municipal areas;
 - (b) Match lines, as needed when there are two or more drawings showing the complete subdivision;
 - (c) Boundary data. The proposed subdivision area shall be shaded or significantly outlined;

- (d) Boundaries of adjacent properties and property owners' names. Adjacent properties which are a part of a recorded subdivision plat may be identified by the subdivision name.
- (2) Title block including:
 - (a) Subdivision name, name of the Town and county in which the subdivision is located and name and address of record owner(s) and the subdivider;
 - (b) True or magnetic North point and date taken;
 - (c) Date of original submission and each subsequent submission(s).
 - (d) Map scale;
 - (e) The name, address, license number and seal of the New York State licensed professional (including but not limited to an engineer, architect or landscape architect) who prepared the drawing and support documentation.
- (3) Existing site conditions to be shown:
 - (a) Topographic contours:
 - [1] Contours existing on the tract, and extending 50 feet beyond the subdivision boundary, at vertical intervals of five feet or, in the case of relatively level tracts, at such lesser interval as may be necessary for satisfactory study and planning of the tract;
 - [2] Datum to which contour elevations refer shall be presented. Where reasonably practicable, data shall refer to known, established elevations;
 - [3] The extent to which existing contours will be altered during the course of subdivision development for street and driveway placement, storm control, sewage disposal, etc., including identification of all grading and clearing limits.
 - (b) Natural features:
 - [1] The location and area of all existing watercourses, tree masses and other significant natural features;
 - [2] All areas designated as wetlands by the NY State Department of Environmental Conservation as freshwater wetlands and/or jurisdictional federal wetlands, flagged as necessary;
 - [3] A map of soils interpretation of existing soils, indicating type, percolation, soil bearing and depth to groundwater.
- (4) Existing conditions:
 - (a) All existing buildings, water mains, culverts, sewer and gas mains, power lines, fire hydrants and other significant man-made features shall be identified by size, type of structure, location and, as applicable, elevation;

- (b) All existing streets or highways on or adjacent to the tract, including name, right-of-way width and pavement width;
 - (c) All existing property lines, easements and rights-of-way, and the reason for their establishment.
- (5) Proposed site improvements and descriptions:
- (a) Location, width, grades, names and restrictions, if any, of all proposed streets, highways, rights-of-way and easements;
 - (b) Municipal or public lands designated as parks or open spaces, or for some other public or community use, including community facilities;
 - (c) The location of playgrounds, public buildings, public areas and open space;
 - (d) Building and other structures on the subdivision which are to remain;
 - (e) Limits of clearing for all vegetated areas.
 - (f) Lot layout:
 - [1] The dimensions and area of lots to the nearest 1/100 foot. Blocks and lots shall be numbered and lot drainage shall be shown;
 - [2] Identification of lots or parcels for special use and whether they are to be offered for dedication;
 - [3] Easements and restricted areas, with notation as to purpose, shall be shown;
 - [4] Street access to adjoining property;
 - [5] 911 requirements. Lot numbering shall be in compliance with Town of New Scotland 911 designations.
 - (g) Utilities:
 - [1] The location of any proposed on-site water systems or connection to existing system; sanitary disposal system, showing depth to water table, soil boring data (as necessary), treatment area, connection points and line size, or connection to existing system;
 - [2] Evidence that the proposed methods for water supply and sanitary sewage disposal have been reviewed and approved by the New York State Health Department, the New York State Department of Environmental Conservation, and the Albany County Department of Health, as required;
 - [3] Stormwater management and erosion control. The location and size of stormwater management improvements and/or erosion control measures, to be constructed;

- [4] Cross-sections showing the proposed location and type of water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.

(h) Test hole data, if required:

[1] Date and location;

[2] Graphic representation of findings for all test holes.

- E. Protective covenants. A draft of any protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development, including those required to preserve open space and those required for maintenance and care of shared open space and facilities shall be provided.
- F. Submission of State Environmental Quality Review Act¹ full environmental assessment form, part one, completed with documentation.
- G. An engineering project narrative outlining the design intent of the subdivision layout, and compliance issues with appropriate federal, state, county and local laws, ordinances and regulations.
- H. List of names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision.

§ 164-21. Action on preliminary plat submission.

- A. Application must be received by the Inspector at least 14 days prior to a regularly scheduled Planning Board meeting in order to be considered officially submitted at that meeting. Applications received by the Inspector less than 14 days prior to a regular scheduled Planning Board meeting will be considered officially submitted at the following Planning Board meeting.
- B. A public hearing shall be held by the Planning Board within 45 days from the time of submission of the preliminary plat. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. Should a SEQR hearing be required, the review period requirements of 6 NYCRR Part 617 shall supersede the requirements of this section and said hearings shall be held simultaneously.
- C. Within 45 days after the date of such hearing, the Planning Board shall approve, conditionally approve or disapprove such preliminary plat, stating the grounds of modification, if any or the grounds for disapproval upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing, modifications, if any, as it deems necessary for submission of the plat in final form. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.

1. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- D. In the event that the Planning Board fails to take action within the time prescribed, the preliminary plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Town Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Town Clerk's request.

§ 164-22. Certification of preliminary plat approval.

- A. Within five days of the approval of such preliminary plat, it shall be certified by the Inspector as preliminarily approved. A copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail.
- B. Review and acceptance of a preliminary plat as the basis for the preparation of a final plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of acceptance of the layout submitted on the preliminary plat as a guide to the preparation of the final plat. The final plat must be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of this chapter and the conditions of review and acceptance, if any.

§ 164-23. Compliance with state and county regulations.

- A. If said subdivision is located within a distance of 500 feet from any of the following, the subdivision must also be referred to the Albany County Planning Board for its review as required under General Municipal Law § 239-n:
- (1) The boundary of any city, town or village; or
 - (2) The boundary of any existing or proposed county or state park or other recreation area; or
 - (3) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - (4) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - (5) The existing or proposed boundary of any county or state land on which a public building or institution is situated; or
 - (6) The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law.
- B. Approval of a preliminary plat shall not be deemed final until the subdivider has fulfilled all requirements of this chapter, 6 NYCRR Part 617 SEQR Law and any other appropriate state and county requirements. The time requirements of this section shall be superseded by any time requirement of 6 NYCRR Part 617 SEQR Law, and, if needed,

time requirements for any Zoning Board of Appeals review and decisions shall also prevail. No preliminary plat may be approved prior to full compliance with 6 NYCRR Part 617 SEQR Law. After completion of these details and notation to that effect upon the plat, it shall be deemed as having preliminary approval.

§ 164-24. Major subdivision final plat procedure.

As required in New York State Town Law § 276, Subdivision 5(h), within six months after Planning Board action on the preliminary plat, the final plat and necessary supplementary data required for final approval shall be prepared as specified in § 164-25 and shall be submitted for review and final approval. An extension of time may be granted by the Planning Board for submission of the final plat upon written request by the subdivider for up to two additional six-month periods. Any plat submitted after six months or, extension provided, shall be considered as a new preliminary plat.

§ 164-25. Major subdivision final plat submission requirements.

- A. The final plat shall conform substantially to the preliminary plat as approved. Prior to granting conditional or final approval of the plat in final form, and, if desired by the subdivider, the Planning Board may permit the plat to be split into two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to ensure the orderly development of the plat before such sections may be signed by the Inspector. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.
- B. Twelve copies of the completed final plat application and all necessary supplementary data required shall be submitted in writing to the Inspector for distribution to the Planning Board at least 14 days prior to the meeting at which it is to be considered.
- C. The subdivision plat submitted for final approval shall be clearly legible on white background drawings.
- D. Final plats shall be on sheets not larger than 30 inches by 40 inches overall. It is recommended that as far as practicable final plat sheets be held to the following overall sizes: 17 inches by 22 inches; 22 inches by 34 inches; 24 inches by 36 inches; 30 inches by 40 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, final plats shall be drawn in two or more sections accompanied by a key diagram showing relative location of the sections.
- E. The final plat shall be at a scale of not more than 100 feet to the inch. All dimensions shall be shown in feet and in hundredths of a foot. The final plat shall include all information required on the preliminary plat (unless superseded by the following) and the following information:

- (1) Survey data:
 - (a) Boundaries of the tract;
 - (b) Street or highway lines, lot lines, rights-of-way, easements, and areas dedicated or proposed to be dedicated to public use;
 - (c) Sufficient data to determine readily the location, bearing and length of every street or highway lot, and boundary line and to reproduce such lines on the ground;
 - (d) The length of all straight lines, radii, lengths of curves and tangent bearings for each street or highway;
 - (e) All dimensions and angles or bearings of the lines of each lot and of each area proposed to be dedicated to public use;
 - (f) The proposed building setback line for each street or highway or the proposed placement of each building;
 - (g) Location and width of all private driveways;
 - (h) Lots and blocks within a subdivision, which shall be numbered in accordance with prevailing Town practices and comply with Town of New Scotland 911 designations.
- (2) Names of streets or highways within and up to 500 feet of the subdivision.
- (3) Monuments. The accurate location of all permanent reference monuments shall be shown and constructed as specified in § 164-46B.
- (4) Wherever practicable names of any adjoining subdivision shall be shown.
- (5) List of names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision.

§ 164-26. Accompaniments.

The final plat shall include hereon or be accompanied by the following:

- A. A statement duly acknowledged before the Clerk of the Town of New Scotland and signed by the owner or owners of the property, to the effect that the subdivision as shown on the final plat is made with free consent and that it is desired to record the same.
- B. Certification by the Planning Board Engineer and the Town Planning Board Attorney that the subdivider has met the requirements of Article VI of this chapter.
- C. Typical cross-sections, street or highway profiles and drainage details for all streets. Such profiles shall show at least the following: existing (natural) grade along the proposed street center line; proposed finished center-line grade and proposed grade of culvert

inverts in accordance with the requirements of the New Scotland Highway Department and the Town Board.²

- D. Protective covenants, including covenants governing the maintenance of uncaded public open space or reservations.
- E. Letters, as appropriate, to the Chairman of the Planning Board, signed by a responsible official of the State Department of Transportation or County Public Works Department, approving proposed construction on state or county rights-of-way and indicating that the necessary permits have been issued by their office, or submission of a copy of appropriate permits.
- F. The subdivider shall tender offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways or parks, not otherwise specifically reserved. Approval of the plat by the Planning Board shall not constitute an acceptance by the Town Board or Town Highway Department of the dedication of any street, highway, or park or other open space for public use.
- G. Such other certificates, affidavits, endorsements or agreements as may be required by the Inspector and/or the Planning Board in enforcing this chapter shall be provided.

§ 164-27. Action on final plat.

- A. Applications must be received by the Inspector at least 14 days prior to a regular, scheduled Planning Board meeting in order to be considered officially submitted at that meeting. Applications received by the Inspector less than 14 days prior to a regular scheduled Planning Board meeting will be considered officially submitted at the following Planning Board meeting.
- B. Within 45 days after the Planning Board meeting at which the final plat is reviewed, the Board shall hold a public hearing on the final plat. The final plat hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. The Planning Board may waive the requirement for such hearings when the Board deems that the final plat, as submitted, is in substantial agreement with the preliminary plat approved under § 164-19, and, if such preliminary plat had been approved with modifications, the final plat is modified in accordance with requirements of such approval.
- C. Within 45 days after the date of such hearing, or within 45 days from the time of submission of the final plat, if no public hearing is held, the Planning Board shall meet to take action on the submission of the completed application. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.
- D. The Planning Board shall take one of the following actions:

2. Editor's Note: See also Ch. 110, Highway Specifications.

- (1) The Planning Board may move to approve the final plat as submitted. The Planning Board is required to approve the final plat, subject to the following conditions:
 - (a) All the requirements for final subdivision plat submission have been met;
 - (b) All required corrections and modifications have been made or a sufficient guarantee has been accepted by the Planning Board for such corrections and modifications;
 - (c) Any bonds or other forms of surety requested by the Planning Board, Planning Board Attorney, Town Board Attorney and the Highway Department have been obtained by the subdivider and approved by the Town Board;
 - (d) A statement has been supplied by the Town Attorney approving as to the legal sufficiency of all offers of cession or covenants governing the maintenance of unceded public open space.
 - (2) The Planning Board may move to conditionally approve the final plat, outlining in its decision the requirements which must be met for final plat approval. The subdivider shall have 180 days to meet the conditions set forth by the Planning Board for final plat approval. The Planning Board may extend this time for not more than two additional consecutive ninety-day periods.
 - (3) If the final plat is disapproved, the subdivider shall be formally notified of such disapproval. The Planning Board shall outline in its decision the reasons for disapproval.
- E. In the event that the Planning Board fails to take action within the time prescribed, the final plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Town Clerk's request.
- F. Approval shall not be deemed final until the subdivider has fulfilled all requirements of this section, conditions of any conditional approval and any other appropriate State and County requirements. In addition, said approval shall not be deemed final until the subdivider has established appropriate surety with the Town of New Scotland Town Board sufficient to cover the full cost to construct all improvements to be dedicated to the Town of New Scotland.

§ 164-28. Certification of final plat.

- A. Within five days of the resolution granting approval by the Planning Board, the plat shall be certified by the Inspector as approved, a copy shall be filed in the office of the

Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail.

- B. If the Planning Board elects to conditionally approve the plat, within five days of the resolution granting conditional approval, the plat shall be certified by the Inspector as conditionally approved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such conditions which, when completed, shall authorize the signing of the conditionally approved plat. Upon completion of such requirements the plat shall be signed by the Inspector.
- C. If the plat is disapproved by the Planning Board, the subdivider shall be notified in writing, by the Inspector, of such disapproval. Within five days of such disapproval, the plat shall be certified by the Inspector as disapproved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such reasons for which the plat was disapproved.

§ 164-29. Major subdivision plat filing requirements.

Within 60 days after the final approval and endorsement of the major subdivision plat, and in compliance with Article 9, § 334, of the New York State Real Property Law, the subdivider must file the plat for recording with the County Clerk. In the event the subdivider shall file only a section of such approved plat in the office of the County Clerk, the entire approval plat shall be filed within 30 days of the filing of such section with the Town of New Scotland Town Clerk. Any section filed with the County Clerk shall encompass at least 10% of the total number of lots contained in the approval plat. The approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of § 265-a of New York State Town Law. One Mylar or linen and one paper copy, properly endorsed, of the approved subdivision shall be filed with the County Clerk. Should the final plat not be offered for recording within such period, final approval of the plat shall expire and become null and void.

**ARTICLE IV
Design Standards**

§ 164-30. Land requirements.

The following general land requirements, where applicable, shall apply to "all" subdivisions in the Town of New Scotland. Land shall be suited to the purpose for which it is to be subdivided. In general, the Planning Board and for minor subdivisions, the Inspector, shall take the following factors into consideration prior to the approval of any subdivision plat.

- A. A subdivision laid out on low-lying land that is subject to periodic flooding and/or qualifies as a wetland

[NOTE: Wetlands include all areas identified as being Town-designated wetlands, New York State Department of Environmental Conservation freshwater wetlands and/or jurisdictional federal wetlands as outlined in "Federal Interagency Committee for Wetland Delineation, Federal Manual for Identifying and Delineating Jurisdictional Wetlands," US Army Corp of Engineers, US Environmental Protection Agency, US Fish and Wildlife Service, and USDA Soil Conservation Service, Washington D.C. Cooperative Technical Publication, 76pp. plus appendices. Use most recent modification an/or update.] shall not be approved unless it is proven that adequate safeguards against such hazards are provided by the plan and such layout complies with state and federal wetland regulations and federal flood protection regulations.

- B. Areas characterized by steep slopes in excess of 20% grade, rock formations, wetlands and floodplains may be included in area calculations for individual lots identified by the applicant to adequately support structures, water supply and sanitary disposal systems, as required.

§ 164-31. Street or highway system.

- A. The location of all secondary (collector) streets in a proposed subdivision shall conform in general alignment to the Official Map, adopted by the Town of New Scotland, Town Board, if so identified.
- B. The proposed street layout shall provide for the continuation or projection of existing streets or highways in the surrounding area unless the Planning Board deems such extension undesirable for specific reasons of topography or design.
- C. Streets shall be related to the topography so as to produce usable lots and grades which do not exceed 10%.
- D. Local streets shall be so laid out as to discourage through traffic; however, provision for street connections into and from adjacent areas will generally be required.
- E. Where it is desirable in the opinion of the Planning Board to provide street access to adjoining property, proposed streets shall be extended to the boundary of such property.
- F. If lots resulting from the original subdivision are large enough to permit resubdivision, or if a portion of the tract is not subdivided, adequate street right-of-ways to permit further subdivision shall be provided as necessary and required by the Planning Board.
- G. Where a subdivision abuts or contains an existing or proposed primary or secondary street, the Planning Board may require marginal access streets, rear service alleys, reverse frontage or through lots or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with any primary or secondary street, and separation of local and through traffic as necessary for adequate protection of residential properties and to afford separation of local and through traffic.
- H. New half or partial streets will not be permitted, except where essential for reasonable subdivision of a tract in conformance with the other requirements and standards

contained herein and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

- I. Wherever a tract to be subdivided borders an existing half or partial street, the other part of the street shall be designed within such tract.
- J. Dead-end streets shall be prohibited except as stubs to permit future street extension into adjoining tracts, or when designed as culs-de-sac. Any dead-end street will comply with the requirements of § 164-32C.

§ 164-32. Cul-de-sac.

- A. Cul-de-sac streets permanently designed as such shall not exceed 1,000 feet in length, and shall furnish access to not more than 24 nor fewer than six dwelling units.
- B. Cul-de-sac street shall be provided at the closed end with a pavement turnaround having a minimum radius to the outer pavement edge of 75 feet and a minimum right-of-way radius of 90 feet, or as acceptable to the Planning Board and Town Highway Department.
- C. A temporary turnaround shall be provided at the end of a street where future extension is expected. The excess right-of-way of the turnaround will revert to lot owners when the street is extended. A paved turnaround having a minimum radius to the outer pavement edge of 50 feet and a minimum right-of-way radius of 60 feet shall be provided at the closed end of any temporary cul-de-sac or as acceptable to the Planning Board and Town Highway Department.
- D. In place of a cul-de-sac or a temporary turnaround, the Town Highway Superintendent may recommend to the Planning Board either a "K"-type or "T"-type turnaround. In any event the details of such must be acceptable to both the Planning Board and the Town Highway Department.

§ 164-33. Street or highway right-of-way widths.

- A. Minimum street right-of-way widths, measured from lot lines, shall be as shown on the Official Map adopted by the Town Board, or if not shown thereon, shall meet the following minimum standards:
 - (1) Primary streets: sixty-six-foot right-of-way;
 - (2) Secondary street: sixty-foot right-of-way;
 - (3) Local (minor) street: fifty-foot right-of-way;
 - (4) Marginal access street: fifty-foot right-of-way.
- B. Where a subdivision abuts or contains an existing street or right-of-way of inadequate right-of-way width, additional right-of-way width in conformance with the above standards shall be required.

§ 164-34. Pavement widths.

- A. Minimum pavement widths, measured from edge of pavement to edge of pavement, shall be as shown on the Official Map, or if not shown thereon shall meet the following standards:
- (1) Primary street: twenty-four-foot pavement width;
 - (2) Secondary (collector) street: twenty-four-foot pavement width;
 - (3) Local (minor) street: twenty-four-foot pavement width;
 - (4) Marginal access street: twenty-four-foot pavement width.
- B. All streets listed above are to have three-foot-wide shoulders on either side in addition to the minimum pavement widths as shown on the Town's "Typical Street Section."³

§ 164-35. Street or highway alignment.

- A. Whenever street lines are deflected in excess of 5°, connection shall be made by horizontal curves.
- B. To ensure adequate sight distance, minimum center-line radii for new streets for horizontal curves shall be as follows:
- (1) Primary street: 500 feet;
 - (2) Secondary (collector) street: 300 feet;
 - (3) Local (minor) street: 150 feet;
 - (4) Marginal access street: 150 feet.
- C. Except on local and marginal access streets, a tangent shall be required between reverse curves.

§ 164-36. Street or highway grades.

- A. Center-line grades shall not exceed the following:
- (1) Primary street: 5%;
 - (2) Secondary street: 7%;
 - (3) Local street: 10%;
 - (4) Marginal access street: 10%.

3. Editor's Note: Said diagram is included at the end of Ch. 110, Highway Specifications.

- B. Vertical curves shall be used at changes of grade exceeding 2% and shall be designed in relation to the extent of the grade change and to provide the following minimum sight distance:
- (1) Primary street: 400 feet;
 - (2) Secondary street: 200 feet;
 - (3) Local street: 100 feet;
 - (4) Marginal access street: 100 feet.
- C. Where the grade of any street at the approach to an intersection exceeds 7%, a leveling area shall be provided having not greater than 1% grades for a distance of 25 feet measured from the nearest right-of-way line of the intersecting street.
- D. To provide for adequate drainage, the minimum grade shall not be less than 1%.

§ 164-37. Street intersections.

- A. Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60°.
- B. No more than two streets shall intersect or meet at any one point. Where this proves impossible, such intersections shall be designed to minimize pedestrian and vehicular conflicts and confusing traffic patterns.
- C. Clear sight triangles of 30 feet measured along street lot lines from their point of junction shall be provided at all intersections, and no building shall be permitted within such sight triangles.
- D. To the fullest extent possible, local streets intersecting with primary and/or secondary streets shall be located not less than 800 feet apart, measured from center line to center line.
- E. Streets or highways entering opposite sides of another street or highway shall be laid out either directly opposite one another or with a minimum offset of 125 feet between their center lines.
- F. Minimum pavement radii at street or highway intersections shall be 25 feet for intersections involving only local streets, 33 feet of intersections involving other primary or secondary streets, or such other radius layouts, as is suited and/or required for the specific intersection.

§ 164-38. Lots.

- A. Lot dimensions and areas shall not be less than specified by provisions of the Town of New Scotland zoning requirements.⁴

4. Editor's Note: See Ch. 190, Zoning.

- B. Where either or both water supply and sanitary sewage disposal are provided by individual on-lot facilities, the Planning Board may employ the services of a registered and qualified independent engineer, hydrogeologist, or other appropriate professional for advice as the minimum lot size and/or facilities necessary to prevent unsanitary conditions and hazards to the public health. In such cases, the reasonable cost of retaining the services of the professional shall be borne by the subdivider.
- C. The ratio of the depth of any lot to its width shall not exceed the depth to width ratio stated in Chapter 190, Zoning, of the Code of the Town of New Scotland for minimum lot size calculations purposes only.
- D. Side lot lines shall be designed such that lot lines run substantially at right angles or radial to street or highway lines.
- E. Double frontage lots are prohibited, except where employed to prevent vehicular access to primary and secondary streets.
- F. Depth and width of parcels laid out or reserved for nonresidential use shall be sufficient to provide satisfactory space for off-street parking and unloading as required by the Town of New Scotland zoning requirements.⁵

§ 164-39. Easements.

- A. Easements with a minimum width of 30 feet shall be provided for public utilities, including storm drains and sanitary sewers conveyed to and/or installed by the Town. Wider easements or rights-of-way may be required subject to the Town Engineer's recommendation.
- B. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
- C. Where a subdivision is traversed by a watercourse, drainage way, channel or stream there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such further width as will be adequate to preserve natural drainage.

§ 164-40. Blocks.

- A. The length, width and shape of blocks shall be determined with due regard to the following:
 - (1) Provision of adequate sites for buildings of the type proposed;
 - (2) Zoning requirements;⁶
 - (3) Topography;

5. Editor's Note: See Ch. 190, Zoning.

6. Editor's Note: See Ch. 190, Zoning.

- (4) Requirements for safe and convenient vehicular and pedestrian circulation.
- B. Block length shall not exceed 1,200 feet. In the design of blocks longer than 1,000 feet, special consideration shall be given to the requirements of satisfactory fire protection.
- C. Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots bordering a major traffic highway are used.

§ 164-41. Stormwater management plan.

A stormwater management plan must be submitted prior to the Planning Board taking any action on any major subdivision and/or development of land specified elsewhere in the regulations and laws of the Town of New Scotland, New York. Said plan is to comply with the requirements outlined in Appendix A of this chapter, not attached; draft question as modeled after NYSDEC Division of Water, Technical and Operations Guidance Series 95.1.8. Said plan must address the following issues:

- A. Flood control:
 - (1) Peak flow attenuation;
 - (2) One-hundred-year flood plans;
 - (3) Runoff conveyance systems.
- B. Water quality management:
 - (1) Control of "first flush";
 - (2) Control of thermal discharges;
 - (3) Hierarchy for managing stormwater quality.

§ 164-42. Community facilities and Comprehensive Land Use Plan requirements.

- A. In reviewing subdivision plans, the Planning Board will consider the adequacy of existing or proposed community facilities to serve the additional dwellings proposed by the subdivision.
- B. Areas provided or reserved for such community facilities shall be adequate to provide for building sites landscaping and off-street parking as appropriate to the use proposed.
- C. The layout of the proposed subdivision shall be in general conformity with the development concepts and policies proposed in the Comprehensive Land Use Plan of the Town of New Scotland.

§ 164-43. Open space.

- A. All common open space and recreation areas proposed within any major subdivision shall be identified on the preliminary and final subdivision plats. Such open space and

recreation areas shall be reasonably level and conveniently located so as to be easily accessible to all areas of the subdivision. Such provisions shall be subject to Planning Board approval.

- B. Preliminary and final subdivision plats shall show, when required by the Planning Board, a park or parks suitably located and containing suitable site conditions for development of playgrounds or other active recreational purposes. Such park or parks shall be provided by the subdivider in an amount equal to not less than 10% of the land area of the subdivision as provided for under Article 16, § 277, of the New York State Town Law. If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such subdivision or is otherwise not practical, the Planning Board may require as a condition to approval of any such subdivision a payment to the Town, in certified check, bank check or money order, of an amount equal to that provided for in the Town of New Scotland Fee Schedule, which amount shall be available for use by the Town for neighborhood park, playground or recreational purposes including the acquisition of property.
- C. Development and maintenance of the open space areas shall be in accordance with the requirements of the Town of New Scotland zoning requirements.⁷ The Planning Board shall receive documentation of ownership, minimum maintenance standards, and placement of any easements or other rights to the property as may be required to effectuate the requirements of this chapter and the Town of New Scotland zoning requirements prior to final plat approval.

ARTICLE V Infrastructure Improvements

§ 164-44. Identification of proposed improvements.

- A. Improvements to be identified on the plat submission by the subdivider shall include the following, except where the Planning Board finds that, due to the circumstances of a particular plat, the provision of certain required improvements are not requisite in the interest of the public health, safety or general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, in which case the Planning Board may waive such requirements:
 - (1) Streets;
 - (2) Curbs and gutters;
 - (3) Water supply, water mains and fire hydrants;
 - (4) Sanitary systems;
 - (5) Storm drainage;
 - (6) Sidewalks;

7. Editor's Note: See Ch. 190, Zoning.

- (7) Streetlighting;
 - (8) Street signs;
 - (9) Monuments and markers;
 - (10) Street trees.
- B. All improvements are to be designed and constructed in compliance with appropriate Town of New Scotland engineering specifications and State of New York engineering and design specifications.

§ 164-45. Construction standards.

Construction standards for all required improvements shall be as set forth in § 164-46, and shall further be established by the New Scotland Highway Department and Town Board. The standards shall also conform to the Official Map as and when adopted. Alternate improvement standards may be permitted if the Planning Board deems that they are equal or superior in performance characteristics to the specified improvements.

§ 164-46. Minimum improvements.

- A. Minimum on-site improvements required of all subdivisions shall be as set forth in this section. Additional or more extensive improvements may be required in specific cases where, in the opinion of the Planning Board, they are necessary to create conditions essential to the health, safety, morals, and general welfare of the citizens of the Town of New Scotland.
- B. Monuments and markers. Monuments shall be placed so that the scored or marked point shall coincide exactly with the intersection of the lines to be marked, and shall be set so that the top of the monument or marker is level with the surface of the surrounding ground.
- (1) Monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Monuments may be of the following types:
 - (a) Cut stone five inches by five inches by three feet zero inches long with a drill hole in the center;
 - (b) Concrete five inches by five inches by three feet zero inches long with a one-half-inch round brass pin in the center;
 - (c) A two-inch round galvanized three feet zero inches long pipe with a brass cap with a punch hole for center.
 - (2) Markers shall be set at the beginning and ending of all curves along streets, property lines, at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots, at all corner lots; markers shall consist of steel bars at least 15 inches long and not less than 3/4 inch in diameter.

- C. Streets. Streets shall be constructed in accordance with the specifications of the New Scotland Highway Department.⁸
- D. Gutters. Gutters shall be constructed in accordance with the specifications of the New Scotland Highway Department.

§ 164-47. Procedure for installation of required improvements.

- A. Required improvements shall be installed by the subdivider, under the supervision of the Town Engineer and/or Town Highway Superintendent, with the cost of inspection charged to the subdivider.
- B. A preconstruction meeting is mandatory and is the responsibility of the subdivider to set up. Any improvements undertaken prior to the preconstruction meeting shall be considered a breach of the approved subdivision plat and must be removed if so directed by the Town Engineer and/or the Town Highway Superintendent.
- C. The Planning Board, at its discretion, may compel the subdivider to carry out minimum improvements by any of the following methods:
 - (1) A certificate to the Planning Board from the Board Engineer and/or the Town Highway Superintendent that all improvements and installations to the subdivision required by this chapter have been made or installed in accordance with specifications;
 - (2) A performance bond or other security acceptable to the Town Board and approved by the Town Board Attorney as to form, sufficiency and manner of execution, shall be filed with the Planning Board and made payable to the Town of New Scotland.
- D. Such bond or security shall be in an amount sufficient to cover the full cost of completing the improvements and installations in compliance with this chapter.
- E. In case of a bond filed, it shall specify the time for the completion of the improvements and installations and the bond shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond may be extended by the Planning Board with the consent of the parties thereto.
- F. Any method of security accepted by the Town shall be subject to an annual review by the Town to assure that the amount of such security is still sufficient to complete the improvements to Town specifications. At the annual review, should it be found that the amount of the security is not sufficient to complete the improvements required, the subdivider, land owner or developer will be notified in writing of the additional amount of security that is needed to be provided to the Town to allow for the completion of the improvements, and it shall be incumbent upon the subdivider, land owner or developer to

8. Editor's Note: See Ch. 110, Highway Specifications.

provide the necessary additional security to the Town to insure completion of the improvements.

- G. Regardless of the methods accepted by the Town for the assurance of the completion of improvements, and lacking any other written agreement by the Town to the contrary, the responsibility for the completion of any infrastructure or improvements rests solely upon the subdivider, land owner or developer of the subdivision. Any method accepted by the Town to assure improvement completion, bond or other security, will be held by the Town until such time that the improvements are considered, by the Town Engineer and/or Town Highway Superintendent, to be completed to Town specifications, with a certificate stating such filed with the Planning Board and, where required, such improvements are accepted by deed conveyance by the Town Board.
- H. No building permits shall be issued by the Inspector prior to the subdivider meeting all appropriate requirements of Chapter 110, Highway Specifications, of the Code of the Town of New Scotland.

§ 164-48. Completion of improvements.

Upon completing the construction of public improvements covered by any performance bond and prior to the termination of the bond period, the subdivider shall apply to the Town for a final inspection of the work. Upon inspection of the improvements preformed, the Town Board shall act on the release of, extension of, or default on the performance bond.

§ 164-49. As-built plans.

- A. Permanent improvements, such as sanitary sewers, water mains and storm sewers, often require maintenance and repair following their installation. To facilitate repair and maintenance, it is necessary to know exact locations of the utilities in order to avoid tedious and expensive search, therefore, upon completing of the improvements and prior to release of the performance bond, exact locations based upon engineering and surveying techniques of direction, distance and grade shall be drawn to scale on plans submitted by the subdivider to the Town for its records.
- B. Information including, but not limited to, the following should be indicated on the plans:
 - (1) The location of manholes (both vertical and horizontal);
 - (2) The location of catch basins (both vertical and horizontal);
 - (3) The location (both vertical and horizontal) and direction of sanitary sewer lines, storm sewer lines and water mains;
 - (4) The location of connections between the sanitary sewer trunk line and laterals;
 - (5) Grades for laterals;
 - (6) The depth and grade of main trunk lines and laterals;
 - (7) The size, capacity and location of all stormwater conveyance structures.

ARTICLE VI
Cluster Development ⁹

§ 164-50. Purpose and authority.

In an effort to encourage flexibility of design and development of land so as to promote appropriate use of land, facilitate the adequate and economic use of streets and utilities, encourage the conservation and continued agricultural use of agriculturally valuable land and preserve the natural and scenic qualities of the Town of New Scotland, the Planning Board is empowered to modify certain provisions of this chapter in accordance with this section and the provisions of § 278 of the Town Law of the State of New York.

§ 164-51. Applicability.

- A. This article shall apply only to subdivisions of land parcels containing an area of appropriate size and dimension to accommodate five or more building lots in accordance with the Town of New Scotland zoning requirements¹⁰ and other relevant Town law.
- B. Request by subdivider. A subdivider may request the use of this article simultaneously with, or subsequent to, presentation of the preliminary plat. In the event of a request by the subdivider, two preliminary plats meeting the requirements described in § 164-19 shall be presented simultaneously for Planning Board review, or, in lieu of two preliminary plats, the subdivider may present two sketch plans as provided for in § 164-17 prior to preliminary plat submission, for concept review by the Planning Board. Any subdivider presenting a sketch plan for concept review must subsequently formally apply for preliminary plat and final plat approval as described in §§ 164-19 and 164-24.
- C. Application required by the Planning Board. The Planning Board, in accordance with the Town of New Scotland zoning requirements, may request that application be made in accordance with this article simultaneously, or subsequent to, presentation of a preliminary plat. Two preliminary plats, meeting the requirements described in § 164-19 shall be presented simultaneously for Planning Board review, or, in lieu of two preliminary plats, the subdivider may present two sketch plans as provided for in § 164-17 prior to preliminary plat submission, for concept review by the Planning Board. Any subdivider presenting a sketch plan for concept review must subsequently formally apply for preliminary plat and final plat approval as described in §§ 164-19 and 164-24.

§ 164-52. Procedure.

- A. Preliminary plat/sketch plan. A complete application under this article shall include a preliminary plat, or optional sketch plan, of a cluster development form in accordance with the provisions of this section and a standard preliminary plat or optional sketch plan which is consistent with all the criteria established by this chapter, including but not

9. Editor's Note: See also Article VI, Cluster Development, of Ch. 190, Zoning.

10. Editor's Note: See Ch. 190, Zoning.

limited to highways, highway specifications and lots, and consistent with the Town zoning requirements.¹¹

- B. Determination. Determination on voluntary or required applications under this article shall be made by the Planning Board based on the preliminary plat, or optional sketch plan, other information required by these and other regulations and Town of New Scotland zoning requirements.
- C. Plat submission. Upon a determination by the Planning Board that such preliminary plat or optional sketch plan is suitable for the use of this section, one preliminary plat meeting all of the requirements of such a determination shall be presented to the Planning Board, and thereafter the Planning Board shall proceed with the required public hearings outlined in Article IV and all other requirements of this chapter.
- D. Local filing and notation on Zoning Map. Any subdivision plat finally approved which involves modifications as provided for in this article shall be filed with the Inspector, who shall make appropriate notation and reference thereto on the Town Zoning Map.

§ 164-53. Standards.

- A. No such modifications by the Planning Board shall result in a greater overall density of lots or dwelling units than is permitted in the zoning district wherein such lands lie, as specified in the Town of New Scotland zoning requirements and as shown on the Official Zoning Map.¹²
- B. No subdivision shall be approved by the Planning Board pursuant to this article which shall not reasonably safeguard the appropriate use of adjoining land or which shall not be consistent with the purposes and intent of the Town of New Scotland zoning requirements or the policy of this chapter.
- C. In the event that the implementation of this article results in a plat showing lands available for park, recreation or other municipal purposes directly related to the plat, or in a plat showing land to be retained in open space in order to comply with the average density of lots or dwelling units greater than is permitted in the zoning district wherein such lands lie, then the Planning Board, as a condition of plat approval, may establish, in the case of lands for park, recreation or other municipal purpose, such conditions of the ownership, use and maintenance of such lands as it deems necessary to assure the

11. Editor's Note: See Ch. 190, Zoning.

12. Editor's Note: See Ch. 190, Zoning.

preservation of such lands for their intended purposes, and may further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenants, conveyance of a scenic easement or conservation restriction to the Town or other appropriate means against any development or land use inconsistent with their retention in open space.

- D. The provisions of this article shall not be deemed to authorize a change in the permissible use of such lands as provided in the Town of New Scotland zoning requirements.¹³

ARTICLE VII Waivers and Modifications

§ 164-54. Requests for reconsideration of finding, decision or recommendation.

Any subdivider aggrieved by a finding, decision or recommendation of the Inspector or Planning Board may request and receive the opportunity to appear before the Planning Board to present additional relevant information, and request reconsideration of the original finding, decision or recommendation.

§ 164-55. 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, or where the specific issues of health, safety, or welfare of the neighborhood outweigh the strict application of this chapter, and such strict application of this chapter would result in extreme practical difficulties upon the owner(s) of such property(ies); provided, however, that such relief may only be granted without detriment to the public good and without substantially impairing the intent and purpose of this chapter.
- B. In granting such waiver, the Planning Board may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so waived.

§ 164-56. Modifications.

The standards and requirements of this chapter 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 will comply with the standards for planned unit development as set forth in the Town of New Scotland zoning requirements.¹⁴

13. Editor's Note: See Ch. 190, Zoning.

14. Editor's Note: See Ch. 190, Zoning.

§ 164-57. Procedure for applying.

- A. Applications for waivers and modifications shall be submitted in writing by the subdivider at the time of 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 14 calendar days in advance of a regularly scheduled Planning Board meeting at which reconsideration is desired.

ARTICLE VIII
Terminology

§ 164-58. Word usage.

As used in this chapter, words in the singular include the plural and those in the plural include the singular. The word "person" includes a corporation, unincorporated association and a partnership, as well as an individual. The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof." The word "street" includes avenue, boulevard, court, expressway, highway, lane, arterial, and road. The word "watercourse" includes channel, creek, ditch, drain, dry run, spring, and stream. The word "may" is permissive; the words "shall" and "will" are mandatory; subject, however, to the provisions of § 164-55 hereof.

§ 164-59. Definitions.

As used in this chapter, the following terms shall be defined as follows:

BLOCK — An area bounded by streets.

BOARD ENGINEER — A designated registered Engineer retained by the Town Board to perform all administrative and/or supervisory duties required of the Board Engineer by the provisions of this chapter, whose duties, among others, are to review subdivision submissions at the request of the Planning Board, for compliance with the requirements of this chapter.

BOUNDARY LINE ADJUSTMENT — The changing, altering or moving of the boundary or property line between two or more parcels where no additional parcel(s) is(are) created, and where there is no requirement for the construction of, nor the extension of, a public street or public utility. Processed as a minor subdivision and does not require the payment of lot fees as no new lots are created.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street rights-of-way lines.

CUL-DE-SAC — A minor street intersecting another street at one end and terminated at the other by a vehicular turnaround.

DEDICATION — The deliberate appropriation of land by its owner for any general and public uses, reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DOUBLE FRONTAGE LOT — A lot with rear and front lot lines which abut existing or proposed streets.

EASEMENT — A right-of-way granted for limited use of private land for a public or quasi-public purpose.

FINAL PLAT — A complete and exact subdivision plat, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

HALF OR PARTIAL STREET — A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.

INSPECTOR — The Building Inspector of the Town of New Scotland and/or the Building Inspector's duly appointed representative or assistant. The Inspector shall also function as the Clerk of the Planning Board as identified under Town Law Article 16, § 276.4,¹⁵ and the Code Enforcement Officer of the Town.

LARGE SCALE DEVELOPMENT — Any large development of such a size or complex nature as to require multiple reviews under both zoning and subdivision requirements of the Town of New Scotland, and/or which requires phased development review by the Planning Board. Such developments include but are not limited to the following:

- A. Large subdivisions for complete communities or neighborhood development, often proposed in phases.
- B. Any subdivision which includes rezoning of existing district boundaries.
- C. Any subdivision which will include a mixture of land uses such as commercial and residential, and/or mixes of residential uses.
- D. Any form of planned unit development or planned commercial development.
- E. Any form of large cluster development.

LOT — A tract or parcel of land occupied or intended to be occupied by one principal building 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 chapter, and having not less than 50 feet of frontage on a public highway, road, or street. All lot areas used to calculate frontage requirements and lot size must be held in fee simple.

LOT FEES — A per-lot fee assessed in lieu of open space or parkland dedications being required. The fee amount will be as set forth in the Town of New Scotland Fee Schedule.

15. Editor's Note: The reference to Town Law § 276.4 is to the version of § 276 prior to its amendment by L. 1992, c. 727.

LOTS, NUMBER OF — The total number of lots shown on the approved plat. When a subdivision is subject to lot fees, this number shall be used in the calculation of the amount of lot fees due.

PAVEMENT — The portion of a street or alley intended for vehicular use.

PLAT — A plan, map or chart of a piece of land with actual or proposed features.

PRELIMINARY PLAT — A tentative subdivision plan in lesser detail than a final plat showing proposed streets and lot layout as a basis for consideration prior to preparation of a final plat.

REVERSE FRONTAGE LOT — A lot extending between and having frontage on a primary or secondary street and a local (minor) street, and with vehicular access solely from the latter.

RIGHTS-OF-WAY — Land reserved for the use as a street or for other purpose.

SETBACK OR BUILDING LINE — The line within a property defining the required minimum distance between any principal enclosed structure and the adjacent street rights-of-way, and/or side and rear property line.

SIGHT DISTANCE — The maximum extent of unobstructed vision (in a horizontal or vertical plane) along a street from a vehicle located at any given point on the street.

SKETCH PLAN — A discretionary feature of subdivision review which provides the applicant the opportunity to outline the general nature of the proposal for subdivision prior to official application for subdivision review. The sketch plan is intended to provide the Planning Board with sufficient information to evaluate the proposal and advise the subdivider on the proper method of application, the general acceptability of the concept, the consistency with the Comprehensive Land Use Plan and any other special concerns which should be addressed prior to submission by the applicant for preliminary plat approval.

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

- A. **PRIMARY STREET (ARTERIAL STREET)** — Streets which are used primarily for traffic with limited access requirements.
- B. **SECONDARY STREET (COLLECTOR STREET)** — Provide routes which connect local street (minor street) to community facilities, business and industrial districts and to the primary street system. Secondary streets include principal entrance streets of residential developments.
- C. **LOCAL STREET (MINOR STREET)** — Streets which are used primarily for access to abutting residential properties. Local streets include culs-de-sac, marginal access streets and streets used for circulation within residential developments which do not provide for through traffic circulation.
- D. **MARGINAL ACCESS STREETS** — Forms of local streets, generally parallel with and adjacent to primary and secondary streets providing access to abutting properties,

protection against through traffic and control of the number of intersections with primary and secondary streets.

STREET, CENTER-LINE — The line corresponding to the midpoint of the surface portion of any street.

STREET, PUBLIC — A street dedicated to public use.

SUBDIVIDER — The owner, or authorized agent of the owner, of a subdivision.

SUBDIVISION, MAJOR — The term "major subdivision" means the division of any parcel of land:

- A. Into five or more lots, plots, sites, or other divisions of land, for immediate or future sale; or
- B. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the formation of or extension to any water district; or
- C. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the formation of or extension to any sewer district; or
- D. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the construction of or extension to any municipal roadway; or
- E. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the construction of or extension to any municipal infrastructure proposed to be dedicated to a municipality as specified in New York State Public Health Law Article 11, Title II, § 1115, Subdivision 1.

SUBDIVISION, MINOR — The division of land into at least two but not more than four lots, parcels or sites which do not require the construction of a new street, public utility or expansion or extension of an existing street or public utility.

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Appendix A

Subdivision Regulations Stormwater Management Design Considerations

Following are design requirements which must be considered and addressed in any stormwater management plan submitted for review by the Town of New Scotland Planning Board

These Stormwater Management requirements are modeled after the New York State Department of Environmental Conservation, Division of Water, Technical and Operations Guidance Series 95.1.8) Stormwater Management Guidelines for New Development. A Stormwater Management Plan must be submitted prior to the Planning Board taking any action on any Major Subdivision and or any development of land specified elsewhere in the regulations and laws of the Town of New Scotland, New York. Said plan is to comply with the following requirements:

A. Definitions: As used in relationship to the requirements for Stormwater Management, the following terms shall be defined as follows:

1. **Drywell:** Similar to infiltration trench but smaller with inflow from pipe; commonly covered with soil and used for drainage areas of less than one (1) acre such as roadside inlets and rooftop run-off.
2. **Extended detention:** A practice designed to store stormwater run-off by collection as a temporary pool of water, usually having less than a twenty-four (24) hour residence time. A practice which is used to control peak discharge rates, and which provides gravity settling of pollutants.
3. **First Flush:** The delivery of a disproportionately large load of pollutants during the early part of storms due to the rapid runoff of accumulated pollutants.

The first flush in these regulations is defined as one-half inch of runoff per acre of land which has been made more impervious from pre-development (natural) conditions through land clearing, land grading and construction/development activities.

4. **Forebay:** An extra storage area or treatment area, such as a sediment pond or created wetland, near an inlet of a stormwater management facility to trap incoming sediments or take up nutrients before they reach a retention or extended detention pond.
5. **HEC-2:** A U.S. Army Corp of Engineers Computer Program intended for calculating water surface profiles for steady or gradually varied flow in natural or man-made channels.
6. **Impervious area:** Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.
7. **Infiltration:** A practice designed to promote the recharge of groundwater by containment and concentration of stormwater in porous soils.
8. **Infiltration Basin:** An impoundment made by excavation or embankment construction; commonly serves a drainage area of five (5) to fifty (50) acres.
9. **Outfall:** The terminus of a storm drain where the contents are released.
10. **Peak Flow:** The maximum instantaneous flow of water during a storm, usually in reference to a specific design storm event.
11. **Peak Flow Attenuation:** The reduction of the peak discharge of storm runoff by storage and gradual release of that storage.

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12. **Retention:** A practice designed to store stormwater run-off by collection as a permanent pool of water without release except by means of evaporation, infiltration, or attenuation release when runoff volume exceeds the permanent storage capacity of the permanent pool.

13. **Riprap:** A combination of large stone, cobbles and boulders used to line channels, stabilize stream banks, reduce runoff velocities, or filter out sediment.

14. **Riser:** A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

15. **Sand attenuating filter:** A chamber open to the surface containing a surface layer of sand over high void aggregate base. Such chambers may only be used for atypical situations such as where a site is unsuitable for stormwater infiltration or retention.

16. **Sheetflow:** Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel.

17. **Special flood hazard area:** Areas in the Town that have been identified as susceptible to a one (1%) percent or greater chance of flooding in any given year. A one (1%) percent probability flood also is known as the 100-year flood.

18. **SPDES:** An acronym for the State Pollutant Discharge Elimination System. A regulatory permit program administered under Article 17 of the Environmental Conservation Law, by the NYS Department of Environmental Conservation to control point source discharges of water pollution.

19. **Storm frequency:** The average frequency of occurrence of events having a given volume and duration. For example; a 2-year; 10-year; or 100-year storm.

20. **Storm Drain:** Any open or closed conduit designed to convey stormwater.

21. **Storm duration:** The length of time over which a precipitation event occurs (e.g., 24-hours).

22. **Storm volume:** The total amount of precipitation occurring over the storm duration.

23. **Swale:** A depression or wide a shallow ditch used to temporarily route, or filter runoff.

24. **TR-20:** A rainfall model developed by the USDA Soil Conservation Service for hydrologic analysis of a watershed under present conditions of land cover/use and structural or channel modifications using single event storm rainfall-frequency data. Output consists of peaks and/or flood hydrographs, their time of occurrence and water surface elevations at any desired cross section or structure.

B. Flood Control Requirements: The following requirements are to be followed to ensure that stormwater runoff is safely conveyed through and beyond a development site during and after construction. Also, through peak flow attenuation, the requirements are to be used to facilitate the control of stormwater runoff to minimize or alleviate flooding and stream bank erosion associated with land development. The requirements are as follows:

1. Peak Flow Attenuation

- a) The release of stormwater runoff from development shall not exceed pre-development (natural) conditions. To accomplish this, stormwater runoff is to be controlled so that during and after development, the-site will generate no greater peak than prior to development for a 2-year, 10-year, and 100-year 24-hour storm considered individually as follows:

1. Attenuation of the 2-year storm is intended to achieve stream channel erosion control.

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2. Attenuation of the 10-year storm is intended to assure the adequacy of existing and proposed culverts and storm drain systems.
 3. Attenuation of the 100-year storm is intended to reduce the rate of runoff from development to prevent expansion of the 100-year flood plain so as to alleviate flooding of improved properties and streets.
- b) Peak flow attenuation requirements may be satisfied by means of detention basins and/or other appropriate structures. Infiltration trenches, dry wells, or stone reservoirs underneath paving, may be used for the purpose of attenuating peak flows for smaller storms provided appropriate consideration is given to the length of life of the stormwater facility, and feasibility of maintenance of such facility.
- c) Where dams are to be constructed for attenuating peak flows, approval may have to be obtained from DEC pursuant to Article 15-0503 of the Environmental Conservation Law.
- ### 2. 100-Year Flood Plains
- a) Encroachment into any Area of Special Flood Hazard shall be allowed only in compliance with local restrictions adopted for participation in the National Flood Insurance Program, and other appropriate New York State laws and regulations.
- b) A fifty (50) foot buffer (building restriction line) is required between the flood hazard area and any structure as a safety factor to allow for inaccuracy in boundary determination. Pursuant to Article 24 of the Environmental Conservation Law, a one hundred (100) foot buffer is required around any protected wetland.
- c) The stormwater management plan for all developments of five (5) or more acres or containing five (5) or more dwelling units located wholly or partially within a 100-year flood plain where flood elevation data are not available through the NFIP, must include a study to determine 100-year flood plain elevations in accordance with TR-20, HEC-2 or other standard engineering methods. Such elevation data shall be used to regulate flood plain encroachments in accordance with the NFIP. The 100-year flood plain elevation and the building restriction line shall be shown on the subdivision plat.
- ### 3. Runoff Conveyance Systems
- a) Priority shall be given to maintaining natural drainage systems, including perennial and intermittent streams, swales and drainage ditches in an open condition.
- b) Where closed storm drain systems (i.e., those involving a culvert or similar conduit) are deemed essential, justification shall be made as to why it is necessary to have a closed system. When justified, the closed system shall be designed to:
1. convey the 10-year storm flow within the closed storm drain system; and
 2. provide for safe overland conveyance of flow of the 100-year storm through the development (generally over the top of the closed storm drain system). All overland flow conveyance structures are to be at least one (1) foot above the 100-year flood plain elevation and the outfalls of such conveyances are to be stabilized with rip-rap or other suitable material to reduce erosion.

- c) Any alteration to a stream, a stream bed or the banks thereof, including the installation of stormwater conveyance systems will require an Article 15, Protection of Water Permit and may require an Article 24, Freshwater Wetlands Permit administered through the New York State Department of Environmental Conservation.
- d) Any culvert or stormwater structure placed in a stream shall not impede fish migration.

4. Stream Corridor Management

- a) Consistent with the State's Stream Corridor Management Program, land clearing and land grading within a stream corridor shall be avoided or minimized, except at stream crossings, so that stream and drainage courses remain in a natural state¹.
- b) To the extent possible, riparian vegetation, including grasses, shrubs and trees in the stream corridor or along the watercourse, shall remain undisturbed during land clearing, land grading and land development. Provisions for temporary and permanent protection of said vegetation shall be identified on the subdivision plat.

C. Water Quality Management: The following requirements are to be used in conjunction with the flood control requirements outlined in Subsection A to protect water quality from runoff associated with land clearing, land grading and construction activities. The requirements must be presented by the subdivider in the form of a stormwater management plan (SMP). These

¹ New York State Department of Environmental Conservation, "Stream Corridor Management: A Basic Reference Manual", Albany, 1986.

requirements apply to all land areas where soil permeability has been and/or will be changed as a result of land clearing, land grading and land development.

1. Control of "first flush" - Control of the "first flush" is a priority in stormwater management as most runoff-related water quality contaminants are transported from land, particularly impervious surfaces, during the initial stages of a storm event. Regardless of whether infiltration, retention or extended detention practices are used to capture the first flush, the required control shall accommodate the following:

- a) Provide for control of the first 1/2-inch of runoff from all land areas for which the surface porosity has been or will be changed from pre-development (natural) conditions due to land clearing, land grading and land development².

2. Control of Thermal Discharges: Control of thermal energy in stormwater runoff in watersheds having streams which support cold water fisheries is essential. Impervious surfaces including asphalt parking areas and roofs, store large quantities of heat during hot weather. The heat from such surfaces is released to stormwater through conduction during storm events. Stormwater runoff having elevated temperatures can, in turn, increase stream temperatures during storm events and adversely impact cold water fisheries. Accordingly, stormwater discharges are to be consistent with the thermal criteria found in Part 704 of the Water Quality Regulations, Title 6, Chapter X, New York State Codes, Rules and Regulations.

² In addition to paved surface areas and areas covered by roofed structures, the contributory area for which the first 1/2-inch of runoff is to be controlled includes lawn and similarly landscaped surfaces.

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3. Hierarchy of Methods for Managing Stormwater Quality (See Design guidelines for controlling the first one-half inch of runoff starting on page 8): The following stormwater management systems, summarized in descending order of preference, are to be used to control the first flush when designing stormwater facilities. The practices are:

- a) infiltration
- b) retention, and
- c) extended detention.

When a stream supporting a cold water fishery is the object of protection, extended detention should be placed ahead of retention in the hierarchy. A combination of these practices, including stormwater management adjuncts may be used to achieve first flush control objectives. Justification for the rejection of practices listed as having a higher priority must be provided prior to acceptance of a Stormwater Management Plan by the Planning Board.

a) Infiltration

Infiltration of runoff on-site by use of vegetated depressions and buffer areas, pervious surfaces, drywells, infiltration basins and trenches permits immediate recharge of groundwater and aids quality treatment through soil filtration. This practice eliminates or minimizes direct stormwater discharges to a waterbody and provides thermal benefits to cold water fisheries.

b) Retention

Retention by use of wet ponds and wetlands constructed in upland areas provides for the storage of collected runoff in a holding area prior to release in a waterway allowing quality treatment by sedimentation, flocculation, and biological removal. Retention is used when post-development runoff volume is expected to exceed the capabilities of infiltration. Summer temperatures of

water in a retention facility may exceed temperatures required to sustain a cold water fishery, therefore, retention is not appropriate where stored (warm) water in a retention facility is displaced by storm runoff and discharged to a trout stream in contrast of Part 704 standards.

c) Extended Detention

Extended detention provides for the temporary storage of collected runoff in a holding area prior to release into a waterway. Settling is the primary pollutant removal mechanism associated with extended detention. Extended detention can provide thermal benefits to trout streams. By using a perforated, low flow drain pipe encased in a gravel jacket having an adequate mass, extended detention may be used to dissipate heat and cool stormwater runoff prior to its discharge to a trout stream.

d) Stormwater Management Adjuncts

Flow and pollutant attenuation by use of open vegetated swales, vegetated buffer zones, or filter strips, provides water quality treatment by filtration, attenuation, buffering, sedimentation, biological removal and particle retention. These practices should be used to complement infiltration, retention or extended detention.

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Subdivision Regulations Design Guidelines for Controlling The First One-Half Inch of Runoff

Following are design guidelines for controlling the first one-half (1/2) inch of runoff from contributory drainage.

A. Infiltration

1. Infiltration systems should be designed to capture the first one half inch of stormwater runoff from impervious surfaces, lawns and similarly landscaped areas in the development site. Storm water volumes in excess of this amount should be managed for quantity control by supplemental practices.

2. Infiltration systems should incorporate measures which:

- a. Recognize that the recommended design time to drain stored runoff from an infiltration system depends on the specific method or practice. Accordingly, the following ponding or storage times represent the maximum design time period for the referenced facility:

TYPE	TIME (24 - hour days)
Infiltration Basin	5
Infiltration Trench	15
Dry Wells	15
Porous Pavement	2
Vegetated Depression	1

- b. Ensure that infiltration measures are placed at least one-hundred (100) feet from septic systems and water supply wells.

- c. Recognize that soils with infiltration rates less than 0.5 inches per hour are unsuitable for infiltration measures.

- d. Provide for a vertical separation distance of at least 4 feet between the bottom of the infiltration system and the seasonably high groundwater table or bedrock. (The excavation of an inspection trench/pit or soil borings at the proposed site of the infiltration facilities to determine the elevation of

bedrock and groundwater, and the documentation of such tests must be conducted under the direction of a professional engineer, architect, or landscape architect licensed to practice in New York State.)

- e. Trap excess loads of sediment, grease, oils, and settleable solids and other objectionable materials including floatable organics materials from roadways, parking surfaces, and similar paved areas before they enter the infiltration system.
- f. Route design runoff flows through an infiltration basin without scouring or eroding the basin floor and clogging the surface soil pores.
- g. Route base floor (if any exists) rapidly through the basin to prevent ponding or standing water.
- h. Distribute storm water runoff volume evenly over the floor of the basin to maximize exfiltration rates.
- i. Provide for safe emergency overflow with measures to provide a non-erosive velocity or flow along its length and at the outfall.
- j. Infiltration systems should not receive runoff until the entire contributory drainage area to the infiltration system is permanently stabilized.
- k. Placement of infiltration facilities in areas which have been filled is unacceptable. Compacted fill material loses permeability and the in-situ/fill material interface may cause slope failure due to slippage.
- l. If on-site septic systems are to be used, soils must be able to accommodate loading from both on-site infiltration facilities and on-site septic systems.

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B. Retention

1. Retention (Wet) Ponds

- a. Retention is the preferred method of stormwater management when the water table or bedrock is too high for infiltration and soils are poorly drained. Retention improves stormwater quality by gravity settling, naturally occurring chemical flocculation, and biological uptake.
- b. Wet ponds (another term for retention pond) should not be constructed by impounding existing wetlands unless authorized by the DEC under Article 24 Freshwater Wetlands Act. If existing wetlands are to be located in an anticipated permanent pool area, the maximum normal pool elevation should not increase mean water depth in the wetland area.
- c. Retention ponds should be enhanced with areas of shallow water habitat for additional water quality benefits. Retention ponds also can be part of a created shallow water wetland design, (see use of wetlands for stormwater management, subsection B.2).
- d. Retention ponds (other than shallow marshes addressed in subsection B.2.b) should be designed as follows:
 1. pond geometry should provide for complete mixing of inflow before discharging.
 2. in larger ponds, diversion barriers such as small islands should be used to increase effective length of flow and permit maximum mixing.
 3. the depth of the pond will vary depending on its intended use. The pond contour should include:
 - i an average pond depth of three (3) to six (6) feet;
 - ii a shallow area six (6) inches to two (2) feet deep at the inlet;
 - iii a littoral area or bench ten (10) feet in width along the perimeter to promote marsh habitat for filtering and nutrient removal; and
 - iv an area eight (8) feet to fourteen (14) feet in depth to promote gravity settling and fish habitat.
 4. the minimum drainage area to be served by a wet (retention) pond should be approximately 10 acres. Soils should have infiltration rates less than 0.5 inches/hour.
 5. if soils are so porous that an unreasonably large drainage area is required to sustain a relatively small pond, then infiltration practices should be used.
 6. the residence time of pond water should be twenty-four (24) to forty (40) hours to remove a minimum of two-thirds of the suspended solids and other pollutants from the incoming stormwater. For removal of phosphorus compounds in lake watersheds where eutrophication is a threat or problem, larger volume ponds should be designed to provide a fourteen (14) day residence time.
 7. retention ponds should accommodate up to ten (10) year storm volumes. The minimum volume retained should be that associated with the first one-half inch of runoff. Excess volumes, for example, the one-hundred (100) year storm, may be detained.
 8. velocity dissipation devices should be placed at the outfall of all retention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to water course. Velocity dissipation devices may be required in stream channels at outfall locations to prevent erosion and fisheries habitat degradation. Pursuant to Article 15 of the Environmental Conservation Law, a Protection of Waters Permit may have to be obtained in order to install

in-stream velocity dissipation devices in protected streams.

9. the construction of wet (retention) ponds in and around class AA, A, B, C(T) and (TS) streams (water suitable for trout) may not be appropriate to protect these waters and are not be permitted except where, pursuant to 6 NYCRR Part 704 of the Water Quality Regulations, Title 6, Chapter X, retention will not be injurious to cold water fisheries or their habitat. This practice may elevate water temperatures as well as reduce dissolved oxygen levels.

10. pursuant to Article 15-0503 of the Environmental Conservation Law, approval for construction of a dam for a stormwater retention facility may have to be obtained from DEC.

2. Use of Wetlands

The use of wetlands for stormwater management is receiving increased attention. Wetlands are known to provide water quality benefits by filtering and trapping suspended solids including sediment, chemical adsorption, biological assimilation, microbial decomposition and chemical decomposition.

a. Use of Existing Wetlands

1. It is not acceptable to discharge untreated stormwater directly into naturally existing wetlands. Direct, untreated discharges may overload the natural system, and make it impractical to manage (e.g., by periodic sediment removal) resulting in contamination of the wetland and accelerated succession. Direct discharges also may alter the hydrology and hydroperiod of the wetland, which may significantly alter the vegetative community therein.
2. Incorporating an existing wetland in its natural state into a well-designed stormwater management plan may be

an acceptable method of stormwater management when adverse impacts to the wetland can be avoided. Natural wetlands should be used only for final polishing after pre-treatment by preliminary practices, such as infiltration, retention or extended detention. In these situations, ultimate discharge to the natural wetland may maintain base flow into the system, thereby helping to maintain the health of the wetland.

3. Except as provided for in subsection B. (1) b., natural wetlands shall not be impounded for the creation of either wet or dry ponds.

b. Use of Artificially Created Wetlands

1. Wetlands may be created as part of a stormwater management plan to provide water quality improvement. They may enhance treatment provided by wet ponds and create extended detention areas by enlarging the wetland portions of existing basins.

2. A created wetland also can provide first-flush treatment when one or more smaller ponds are included. Such a design will be essential if no other pre-treatment practices are used. In the winter when vegetative uptake mechanisms are absent, a pond in the wetland retains higher levels of nitrogen compounds which would otherwise escape downstream.

c. Factors for Consideration in designing Created Wetlands

1. Location - the preferred locations are: upland areas adjacent to, but separated from, existing streams and wetlands by vegetated filter strips wide enough to provide a buffer; in an upland extended detention basin; or as a forebay to a wet pond or detention basin.

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2. Hydraulic design - specific stormwater management plan criteria must be determined for each site to ensure the created wetland is sufficient to meet the demands being placed on it and to determine hydrologic impacts to receiving wetlands, if any.

3. Expected inflows - inflows may be composed of stormwater surface water or groundwater. Stormwater should be introduced to wetlands as sheet flow whenever possible. If inflow is conveyed through the outfall, a forebay is necessary. Incoming velocities should not exceed 4 feet per second during two (2) year storm events.

4. Shape and depth - shallow ponds do not have as long a residence time as deeper ponds. Therefore, caution should be used in substituting deep ponds with shallow marshes. However, the water quality values provided by the substrate, biota and vegetation in wetlands may provide services not provided by deeper ponds. It is important to determine what water quality improvement is needed and whether ponds or wetlands better serve that need.

When creating wetlands, seventy-five (75) percent of the wetland should be eighteen (18) inches or shallower. Twenty-five (25) percent of the total surface area should be reserved for open water areas that are deeper than eighteen (18) inches. However, if the water exits the wetland through an outlet structure, the outlet should be located in water approximately three (3) feet deep. Similarly, if a forebay is used, it should be at least three (3) feet deep and comprise ten (10) percent of the total wetland and pond volume.

5. Vegetative composition - the plant species selected should be compatible with the physical nature of the wetland (e.g., depth), the climate conditions of the area, and their tolerance to the

presence of pollutants. A planting scheme and schedule should be incorporated into the stormwater management plan.

C Extended Detention

1. Extended detention ponds may be used to enhance water quality in stormwater runoff. Extending the detention time of dry or wet ponds is an effective, low cost means of removing particulate pollutants and controlling increases in downstream bank erosion. Extended detention is preferred over retention where there is a need to maintain stream temperatures in support of a trout fishery pursuant to the thermal criteria found in Part 704 of the Water Quality Regulations, Title 6, Chapter X.

2. When extended detention ponds are used, they may be acceptable with the following conditions:

- a. The "first-flush" runoff volume (i.e., the first one-half inch of runoff from the contributory drainage) should be extended over a 24-hour detention period.
- b. Stormwater runoff volume generated from a one-inch storm should be released over a 24-hour detention period. The control device should be adjusted so that smaller runoff events (0.1 to 0.2 inches), which normally pass through the pond quickly, are detained for at least a minimum of six hours. In larger watersheds, up to forty (40) hours of extended detention may be needed for streambank erosion control.
- c. Pond outfall velocities should not exceed four (4) feet per second during two (2) year storm events.
- d. Velocity dissipation devices should be placed at the outfall of all extended detention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to a water course. Velocity dissipation devices may be required in stream channels at outfall locations to prevent erosion and fisheries

habitat degradation. Pursuant to Article 15 of the Environmental Conservation Law, a Protection of Waters Permit may have to be obtained in order to install in-stream velocity dissipation devices in protected streams.

- e. Pursuant to Article 15-0503 of the Environmental Conservation Law, approval for construction of a dam for a stormwater detention facility may have to be obtained from DEC.

D. Stormwater Management Adjuncts

Relatively small volumes of stormwater can be managed entirely by flow and pollutant attenuation practices (i.e., drainage from less than 1 acre or relatively small storms). Therefore, flow and pollutant attenuation practices usually are used to supplement other practices. Under this practice, stormwater should be managed as sheetflow to the extent possible and have velocities less than four (4) feet per second during two (2) year storm events. The following design criteria should be considered when vegetative swales or filter strips are used to control stormwater runoff.

1. Vegetative swales

- a. Vegetative swales typically are applied in single family residential developments and highway medians as an alternative to curb and gutter drainage systems. When individual lots are greater than one half (1/2) acre, open section roadways with vegetated swales and check dams are preferred over curb and gutter management systems for stormwater conveyance. In designing and constructing swales:
- b. Small slopes in the flow of swales should be graded as close to zero as drainage will permit. Side-slopes of swales should be no greater than 3:1.
- c. A dense cover of water tolerant, erosion resistant grass must be established. Reed canary grass is recommended for this purpose. Swale grasses should not be mowed close to the ground, as this impedes the filtering and hydraulic

functions of the swale. Also, if a swale is adjacent to a roadway, sensitive species with a low salt tolerance (e.g., bluegrass) should be avoided.

- d. Underlying soils should have a percolation rate of at least one half (1/2) inch per hour.
- e. The swale should be tilled before the grass cover is established to restore infiltration capacity lost as a result of prior construction activities.
- f. Check dams can be installed in swales to promote additional infiltration. A preferred method is to sink a railroad tie halfway into the swale, and place stones on the downstream side to prevent a scour hole from forming. If a check dam is used, the designer should make sure that the maximum ponding time of runoff backed up behind the check dam does not exceed twenty-four (24) hours.

2. Filter Strips

- a. Filter strips do not provide enough storage or infiltration to effectively reduce peak discharges to pre-development levels for design storms. Filter strips are however, viewed as one component of an integrated stormwater management system.
- b. The top edge of the filter strip should follow across the same elevational contour. If a section on the top edge of the strips dips below the contour, it is likely that runoff will eventually form a channel toward the low spot.
- c. A shallow stone trench which follows the contour can be used as level spreader at the top of the strip to distribute flow evenly.
- d. The top edge of the filter strip should directly abut the contributing impervious area otherwise, runoff may travel along the top of the filter strip rather than through it. Berms can be placed at fifty (50) to one-hundred (100) foot intervals perpendicular to the top edge of the filter

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strip to prevent runoff from by-passing the strip.

- e. As an absolute minimum, a grass strip should be at least twenty (20) feet wide. Improved performance can be achieved if the strip is fifty (50) to seventy-five (75) feet wide, plus an additional four (4) feet wide per each one percent of slope at the site (particularly if it is a forested strip).
- f. Wooded filter strips are preferred to grassed strips. If an existing wooded belt cannot be preserved at the project site, the grassed strip should be managed to gradually become wooded by intentional plantings.
- g. If a filter strip has been used as a sediment control measure during the construction phase, it is advisable to regrade and reseed the top edge of the strip. Otherwise, the sediment trapped in the filter strip may affect the flow patterns across the strip, thereby reducing its effectiveness.

E. References

The basic design criteria, methodologies and construction specifications for stormwater management should be those of the Soil Conservation Service, the Soil and Water Conservation Society, the Department of Environmental Conservation, and the Metropolitan Council of Governments which may be found in the most current editions of the following publications and their subsequent revisions:

- 1. Empire State Chapter, Soil and Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control, Syracuse, 1988.
- 2. Soil Conservation Service. "Urban Hydrology for Small Watersheds", Technical Release No., 55. June 1986.
- 3. Soil Conservation Service. "Engineering Field Manual", latest edition, as applicable.

4. "Soil Conservation Service Standards and Specifications for Ponds." Specifications No, 378. July 1981. (This document allows for use of metal pipe risers. Steel structures may corrode in 20 years or less. Therefore, use materials other than steel, especially in aggressive environments.)

5. U.S. Department of Agriculture, Soil Conservation Service, Ponds - Planning Design, Construction, Agriculture Handbook No. 590. 1982.

6. New York State Department of Environmental Conservation, "Guidelines for Design of Dams", Revised January 1988.

7. New York State Department of Environmental Conservation, "An Owners Guidance Manual for the Inspection and Maintenance of Dams in New York State". June 1987.

8. New York State Department of Environmental Conservation. "Stream Corridor Management: A basic Reference Manual." Albany, 1986

9. Metropolitan Washington Council of Governments, Controlling Urban Runoff: A practical Manual for Planning and Designing Urban BMPs. July 1987.

Chapter 182

WATER USE

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ARTICLE X
Water Billing Charges

§ 182-24. Water rents and water usage fees to become liens; minimum charge.

§ 182-25. Collection of water rents and water usage fees; penalties and interest.

§ 182-26. Special water rates for noncompliance with meter installation.

§ 182-27. Delinquent accounts.

ARTICLE XI
Liability of Town

§ 182-28. No liability for interrupted or unsatisfactory service.

ARTICLE XII
Details

§ 182-29. Details.

Installation Detail for Water
Meters and Remote Reading
Devices

Typical Water Service
Connection

Typical Hydrant Installation

[HISTORY: Adopted by the Town Board of the Town of New Scotland 7-11-2001 by L.L. No. 7-2001; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 155.

ARTICLE I
Legislative Intent

§ 182-1. Adoption of general rules and specifications.

For the proper use and services of all water districts owned, operated and maintained by the Town of New Scotland, the following general rules and specifications are hereby adopted.

ARTICLE II
General Provisions

§ 182-2. Purpose and scope.

- A. The following specifications apply to all water mains and services installed on public or private property connected directly or indirectly to the Town of New Scotland water system or any system served by agreement within the Town of New Scotland. All plans and specifications for such water mains shall be reviewed and approved by the Superintendent of Highways, the Water Inspector, Town designated engineer or other duly authorized officials of the Town of New Scotland, Albany County Department of Health and/or New York State Department of Health.

- B. Standard Water Details of the Town of New Scotland Water Department supplement these specifications and shall be considered an integral part hereof.
- C. Whenever American Water Works Association (AWWA) or American National Standards Institute (ANSI) standards are referenced in these specifications, the latest version of the standard referenced shall be applicable.
- D. Recommended Standards for Water Works, Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers, latest revision, supplement these specifications and shall be considered an integral part hereof.

ARTICLE III Terminology

§ 182-3. Definitions and word usage.

- A. Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

CONTRACTOR — The party who is employed by the owner to actually construct the water distribution system and/or water service.

DISTRICT — Any legally established water district or water improvement and extensions thereof in the Town of New Scotland.

DISTRICT BOUNDARIES — The physical boundaries of Districts or improvements as presently established or as may be extended or created from time to time as duly enacted by law.

EASEMENT — An acquired legal right for the specific use of land owned by others.

ENGINEER — A person registered as a professional engineer by the State of New York.

OWNER — An individual, firm, company, association, society, corporation or group, such as a developer, who initiates and pays for the installation of the water distribution system. In the case of water services, the "owner" shall mean the applicant who applies for water service.

PERSON — Any individual, firm, company, association, society, corporation or group.

PREFERRED METHOD — Generally means the standard method of installation that shall be used. Methods other than the preferred method may only be used with the approval of the Superintendent of Highways, the Water Inspector or other duly authorized official of the Town.

PROPERTY LINE — The edge of a water right-of-way in those instances where the water service lateral connects to the public water main not located on a street right-of-way and the owner's property line in those instances where the water service lateral connects to a public water main located in the street right-of-way.

PUBLIC WATER — A common waterline controlled by a governmental agency or public utility.

STANDARD DETAILS — Supplements to these specifications and an integral part thereof, located in § 182-29, Details, of this chapter.

SUPERINTENDENT OF HIGHWAYS — The legally elected Superintendent of Highways for the Town of New Scotland. Whenever the words "ordered," "directed," "required," "approved," or "accepted" or variations thereof are used, they shall refer to action by the Superintendent of the Town of New Scotland Highway Department, or his designated representative(s), unless otherwise specified.

TOWN ENGINEER and/or DESIGNATED ENGINEER — The legally appointed or otherwise engaged Engineer by the Town of New Scotland to oversee the design and/or construction of the water distribution system and who is responsible to certify the same.

UNIT — As described below:

Description	Unit Value
Single-family dwelling	1 unit
Multiple-family dwelling	1 unit per family
Apartments	1 unit per apartment
Business establishments:	
Water use less than 100,000 gallons per year	1 unit
Water use greater than 100,000 gallons per year	1 unit per 100,000 gallons or part thereof
Schools and institutions:	
Water use less than 100,000 gallons per year	1 unit
Water use greater than 100,000 gallons per year	1 unit per 100,000 gallons or part thereof
Vacant lot	0.4 unit

WATER DISTRICT — Any water district owned, maintained and operated by the Town of New Scotland.

WATER INSPECTOR — The duly authorized representative for the Superintendent of Highways.

WATER MAIN — Any pipe bigger than six inches in diameter supplying water as part of a system to one or more buildings. The Superintendent of Highways may allow water mains less than six inches in diameter under special circumstances.

WATER METER READER — An employee appointed by the Town of New Scotland to read all individual water meters within the districts prior to each billing period.

WATER SERVICES — A pipe six inches in diameter or smaller supplying water to one or more buildings.

B. Word usage. "Shall" is mandatory; "may" is permissive.

ARTICLE IV

Power and Authority of Town Inspectors

§ 182-4. Right of entry for purposes of inspection and testing.

The Superintendent of Highways, the Water Inspector, water meter reader and other duly authorized officials of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation and testing. Where a user has security measures in force, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the Town will be permitted to enter without delay. Denial of entry by the Town may result in termination of the water service.

§ 182-5. Observance of safety rules.

While performing the necessary work on private properties referred to in §§ 182-6 and 182-11B, the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town shall observe all safety rules applicable to the premises.

§ 182-6. Entry on private property to observe compliance of facilities.

The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purpose of but not limited to inspections, observation, measurement, sampling, repair, and maintenance of any portion of the water service facilities lying within an easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 182-7. Enforcement officials; right to terminate service.

This chapter shall be enforced by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town. The Town may terminate or cause to be terminated water service to any premises if a violation of any provision of this chapter has occurred.

ARTICLE V
General Information

§ 182-8. Cost to be borne by owner; indemnification of Town.

All costs and expenses incidental to the installation and connection of the water service shall be borne by the property owner(s). These costs shall include attorneys' fee, legal fees, filing fees, engineering fees, etc. The owner(s) shall indemnify the water district and the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the water service. Also see §§ 182-9 and 182-13.

§ 182-9. Lack of water service lateral; responsibility for installation.

- A. In the case where a water service lateral has not been provided at the property line (or permanent easement boundary), the property owner(s) will be required, if and when a water service connection becomes necessary, to construct at his own expense a water service lateral from the public water main to his property.
- B. In all cases, it will be the property owner's responsibility to extend and construct at his own expense the water service lateral across his property to a proper point of connection with the public water main.
- C. A separate and independent water service lateral must be provided for every building. Any exceptions must first be approved by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.

§ 182-10. Connection to existing public water main.

Except in rare occasions, in newly formed water districts the water main will be tapped and a curb box will be placed at the property line. However, in existing water districts it may sometimes be necessary for the property owner(s) to connect to the existing public water main and construct the entire water service lateral from the main to the water meter.

§ 182-11. Inspection and testing.

- A. When the water service lateral is installed and completed, but prior to refilling the trench, the contractor performing the work shall notify the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town so that the installation can be inspected and approval given to refill the trench. Trenches refilled prior to inspection will have to be reopened by the contractor at his own expense. The contractor may also be subject to a penalty. These refilling regulations also apply to property owners installing their own water service lateral connection.
- B. In the discharge of duties, and for the purpose of water inspection, properly identified representatives of the Water District are legally authorized to enter any premises or property in the Town of New Scotland.

§ 182-12. Installation of services.**A. Who can make installations and requirements.**

- (1) No person shall make any attachment with the mains of the New Scotland Water Districts nor may make any repairs, additions to or alterations with the water service lines unless he be authorized by the Superintendent of Highways, the Water Inspector, or other duly authorized officials of the Town and a written permit is issued.
- (2) A separate service line shall be required for each dwelling or commercial building as specified under § 182-9C of this chapter. In case of multiple occupancy the size and number of separate service lines required shall be approved by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.
- (3) Any existing consumer in violation of these requirements may be notified, on 30 days' written notice from the District, to conform to this regulation.

B. Public safety. When any street, public or private grounds shall be opened for the purpose of making a connection with the mains or for laying any waterlines or fixtures, public safety and convenience shall be duly regarded and the street or public place shall be restored to its original condition as soon as possible; and whenever a trench is opened, bridges for the safety and convenience of the public shall be provided, and if left open at night such excavations and bridges shall be guarded with barricades and lights shall be displayed to warn and protect the public. The applicant must obtain from the Town Highway Superintendent, Albany County Highway Department or New York State DOT the required street permit.**C. Ownership.**

- (1) At his own expense, the applicant shall install from the water main to the meter on the premises a water service line and service connections, all to be approved by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town. Every service line must have a curb box of an approved type at the property or easement line and be provided with an iron curb box and cover. This curb box may not be used by the customer for turning on or shutting off the water supply, but is for the exclusive use of the Water District.
- (2) The service line and service connections from the curb box to the meter shall at all times remain the sole property of the applicant, in whom title thereto shall vest. All service lines installed shall have no sweat joint between the curb box and the foundation.

D. Maintenance and replacement.

- (1) The customer, at his own expense, will maintain and protect from freezing and when necessary replace such service line and service connections, specifications for which are contained in Subsection E of this section.

- (2) Should a leak occur in a service line, the owner shall forthwith cause same to be repaired at his own expense. Should the owner fail to effect such repair after two days' written notice from the Town, the water district will cause the water service to be discontinued until such repair has been made.

E. Specifications for service lines.

- (1) All service lines shall have a minimum cover of 60 inches below the surface of the ground, and in no case will any waterline be allowed to be laid in any sewer, drain or utility line trench, nor will any drainage into a waterline trench be permitted. Service lines shall be installed at a horizontal distance of 10 feet from all sewer lines and at a vertical distance of 18 inches from sewer lines, preferably above sewer lines.
- (2) All service lines shall not be less in size than three-quarter-inch inside diameter and shall be US Government Specification Type K soft tempered copper tubing with only mechanical joints underground; over 100 feet: one-inch minimum in size is required. For services larger than two inches in diameter, ductile iron cement-lined class 52 pipe of quality equal to American Water Works Association or federal specifications and of weight suitable for service under a pressure equivalent to at least 150 PSI, or 1 1/2 times the normal working pressure of the system, whichever is greater. The Town reserves the right in all cases to stipulate the size and type of the service lines to be used.

F. Service connection specifications and rules.

- (1) All tapping of the main for services up to and including one inch shall be done by Town forces in accordance with the schedule of service charges. Tapping of the main for services larger than one inch shall be made by the applicant at his expense and observed by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town. No tapping will be done after November 1 and before April 1 (unless weather permits) without the approval of the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.
- (2) The curb stop and box will be placed at the easement or property line.
- (3) No outlet through which water can be taken will be permitted between the meter and District's main in the street.
- (4) No red or white lead will be permitted to be used on joints between the meter and the main.
- (5) No one shall leave the curb stop open nor allow the water to run on the premises after making any new connection with the street main or after making any extension or attachment in unoccupied premises. In cases where the work is a simple extension or additional attachments on consumers' side of the meter, in places where the water is then in use, the installer may leave the water on.
- (6) Except on the pipes on the consumers' side of the meter, no additions or alterations whatsoever, in or about public or private water pipes, shall be made by any person

until application therefor has been made to the District and a written permit given therefor.

- (7) When the supply of water to any premises has been turned off by the direction of the Superintendent of Water, the Water Inspector or other duly authorized officials of the Town, service shall only be returned by and with the authority of the Superintendent of Water, the Water Inspector or other duly authorized officials of the Town.
- (8) If any building is razed, moved or abandoned, it will be the responsibility of the owner or the authority which requires such razing, moving or abandonment, by virtue of public improvement, to notify the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town to remove the water meter. The owner shall discontinue the water service line at the curb box by physically removing the service line or shall shut the corporation stop at the main and disconnect the service line from the main, as determined by the Superintendent of Highways.

G. Underground sprinkler systems.

- (1) Underground lawn sprinkler systems must be part of the metered system.
- (2) Regulations for the use of municipal water for lawn sprinkling shall be established by the Water District as the restriction needs dictate.

H. Car washes. Commercially operated car washes attached to the municipal water supply are prohibited. Water may be supplied for drinking and sanitary facilities.

I. Swimming pools.

- (1) Regulations for the use of municipal water in swimming pools shall be established by the Water District as the restriction needs dictate.
- (2) Any swimming pool utilizing over 1,000 gallons of water, whether located above or below ground, in any of the public water districts of the Town shall have an adequate filtration and recirculating system.
- (3) Before a pool of 1,000 gallons' or more capacity, located within any or all public water districts of the Town, shall be filled with water from the public supply, permission for this purpose shall be requested from the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town who shall stipulate if water from the district can be used and on what date and between what hours such filling shall take place. Such dates and times are to be determined by the Superintendent of Water, the Water Inspector or other duly authorized officials of the Town, and such determination shall be made on the basis of when such use of the water will constitute the least strain on the water supply system.

J. Air-conditioning, refrigeration and heating units.

- (1) All air-conditioning, refrigeration, and heating units connected to the public water supply must be of an enclosed fully recirculating pressure type.
- (2) Existing units or installations theretofore installed and not of an enclosed fully recirculating type shall be converted to conform to this chapter within five years from the effective date of this chapter.

ARTICLE VI
Permit Required Prior to Construction

§ 182-13. Permit required to connect an existing water main or water service lateral; bond requirements.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public water lines thereof without a written permit from the Town. Failure to obtain a permit may result in a penalty as specified under §§ 182-16 and § 182-17 of this chapter. Permits expire one year from date of issue.
- B. Before connecting to an existing water main or a water service lateral, the owner shall contact the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town notifying him of the work to be done. He shall obtain a written permit as required. No connection shall be made to the public water main except in the presence of the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.
- C. Whenever it is necessary to work within any public right-of-way, a bond will be required. Before a permit may be issued for work in any public right-of-way, the person applying for such permit shall have executed into the Town of New Scotland and deposited with the Town Clerk a corporate surety in the sum of \$1,000, except where a larger amount is required by the Town, conditioned that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or ordinances of the Town of New Scotland. This bond shall state that the person will indemnify and save harmless the Town against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with the work or excavating for same. Such bond shall remain in force and must be executed for a period of one year after completion of work except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

§ 182-14. Classes of water permits; application fees; tapping fees; testing fees.

- A. Three types of water permits will be issued. These will be for residential, nonresidential, and repair/reconnection. The owner or his agent shall make application on a special form furnished by the water district. The permit shall be supplemented by any plans, specifications and other information considered pertinent in the judgment of the Superintendent of Highways, the Town Engineer, the Water Inspector or other duly authorized officials of the Town.

B. The permit fees, including inspection, are as follows:

- (1) Residential (per water service and meter installation): \$35.
- (2) Nonresidential (per water service and meter installation): \$50 minimum.
- (3) Repair/reconnection/disconnection (per water service lateral): \$35.

C. Tapping fees:

- (1) Three-fourths-inch water tap: \$550. (If the Town's cost to make a three-fourths-inch water tap exceeds the five-hundred-fifty-dollar fee, all additional costs will be paid by the customer).
- (2) One-inch water tap: \$650. (If the Town's cost to make a one-inch water tap exceeds the six-hundred-fifty-dollar fee, all additional costs will be paid by the customer.)

D. Testing fees.

- (1) Meters one inch or smaller: \$50.
- (2) Meters 1 1/4 inches to two inches: \$75.
- (3) Meters greater than two inches: the customer shall pay for and have the meter tested. Submit test results to Town.

ARTICLE VII
General Rules

§ 182-15. Termination of water service; hydrant use; liability for damages; frozen lines; water use restrictions.

A. Water service may be discontinued by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town for any one of the following reasons:

- (1) For use of water other than as represented in the customer's applications or through branch connections on the street side of the meter or place reserved therefor.
- (2) For willful waste by use of water through improper and imperfect pipes, or by any other means.
- (3) For molesting any service line, seal, or meter.
- (4) For nonpayment of bills for water or services rendered by the district in accordance with these rules and regulations.
- (5) For cross-connecting pipes carrying water supplied by the district with other source of supply such as piping containing nonpotable water, or with any apparatus which

may endanger the quality of the district's water supply, unless protected by approved and satisfactorily operating cross connection control devices.

- (6) For refusal of reasonable access to the property for the purpose of reading, repairing, testing, or removing meters or inspecting water piping and other fixtures.
 - (7) For violation of the rules of the district as set forth in its rules and regulations.
 - (8) For failure to repair leaky service lines after two days' notice.
- B. Other than Fire Departments, no person shall open or interfere with fire hydrants or draw therefrom without permission from the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town. In addition, the Fire Departments will notify the Superintendent of Highways monthly in writing of the approximate gallons used in each district, the hydrant location and the size of the main.
- C. In the interest of public health, the district will not permit its mains or service lines to be connected in any way to any piping, tank, vat or other apparatus which contains liquid chemicals, or any matter which may flow back into the district's service lines or mains and consequently endanger the water supply.
- D. Upon receipt of an application for a new service or the reinstatement of an existing service, the district will assume that the piping and fixtures which the service will supply are in proper order to receive same, and the district will not be liable in any event for any accident, breaks or leakage arising in any connection with the supply of water or failure to supply same.
- E. Any person who damages any street hydrant shall be liable for the actual damages sustained to the hydrant as well as the loss of water wasted before the hydrant can be shut off.
- F. The district undertakes to use reasonable care and diligence to provide a constant supply of water at a reasonable pressure to customers, but reserves the right, at any time, without notice, to shut off the water in its mains for the purposes of making repairs or extensions, or for other purposes, and it is expressly agreed that the district shall not be liable for a deficiency or failure in the supply of water or the pressure thereof for any cause whatsoever, not for any damage thereby, or by the bursting or breaking of any main or service line or any attachment to the district property. All property owners having boilers upon their premises depending upon the pressure in the district's pipes to keep them supplied are cautioned against danger of collapse, and all such damage shall be borne exclusively by the property owner.
- G. In those cases where a customer-owned service line is frozen, the thawing shall be done at the expense of the customer. To avoid a recurrence of freezing, the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town may order an examination of the customer's service line, and if the same is not at a depth of five feet minimum, as required, the Superintendent of Water, the Water Inspector or other duly authorized officials of the Town reserve the right to require it to be relocated before service is resumed.

- H. The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town shall have the right, in periods of drought or emergency, to restrict the use of water for sprinkling, pools or other outside use or to prohibit such use entirely. Notice of such restriction will be published by the Superintendent of Highways, the Water Inspector, or other duly authorized officials of the Town in the official Town newspaper or by other appropriate means.

ARTICLE VIII Penalties

§ 182-16. Penalties for offenses.

Any conviction under this chapter shall be deemed a violation against this chapter, and every conviction of a violation of any provision of this chapter shall be punishable by a fine of not more than \$250 or by imprisonment of not more than 15 days, or both such fine and imprisonment. For the purpose of conferring jurisdiction upon courts and judicial officers generally, charges under this chapter shall be deemed violations.

§ 182-17. Assessment in addition to penalty.

In addition, a penalty may be assessed, not exceeding \$500 for each violation, to be used for and recovered in a civil action brought in the name and for the benefit of the water district within the Town of New Scotland where the violation occurred.

§ 182-18. Judicial proceedings to prohibit violations.

The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town are authorized to issue appearance tickets and to initiate whatever appropriate judicial proceedings are deemed necessary to prohibit violations of this chapter.

ARTICLE IX Distribution System

§ 182-19. Water mains and appurtenances.

A. Pipe and fittings.

- (1) All water mains six inches in diameter and larger and all water services larger than two inches in diameter:
 - (a) Shall be ductile iron in accordance with ANSI/AWWA Specification C1151/A21.51 Class 52, double cement lined, paint seal coated and furnished in eighteen-foot or twenty-foot lengths. Joints shall be push-on or mechanical with rubber gasket of the type in accordance with ANSI/AWWA C111/A21.11-90; or

- (b) With the review and approval of the Town Engineer and Superintendent of Highways, may be polyvinyl chloride in accordance with AWWA C-900 PVC pressure pipe Class 150, DR 18. The pipe shall be manufactured to cast iron or ductile iron outside dimensions. The pipe gaskets shall meet the ASTM specifications D3139. The pipe shall also meet the National Sanitation Foundation Standard No. 61.
 - (2) All pipe fittings shall be ductile iron, mechanical joint double cement lined, in accordance with ANSI/AWWA C110/A21.10-95 compact size in accordance with ANSI/AWWA C-183.
 - (3) Joint-resistant retainer glands shall be mechanical joint restraint with multiple wedging action, as manufactured by EBAA Iron, Inc., Megalug or equal. All clamps, tie rods or retainer glands shall be coated with a heavy coating of approved bitumastic paint after installation.
 - (4) All water mains, hydrant leads and service pipes shall have a minimum of five feet of cover.
 - (5) All ductile iron pipe and appurtenances shall be encased in polyethylene where soil conditions warrant. Polyethylene shall be manufactured and installed in compliance with AWWA C105/A21.5-93.
- B. Valve and valve boxes. All four-inch to sixteen-inch valves shall be resilient wedge valves, O-ring sealed in accordance with AWWA C-500 as manufactured by Clow F5065 or resilient seated gate valve in accordance with AWWA C509 as manufactured by Clow F6100 or equal. Valves installed underground shall be mechanical joint nonrising stem, open left. Valves installed inside structures shall be flanged, outside screw and yoke open left and shall be double gate valves as manufactured by Clow R-5702 or resilient seated gate valves as manufactured by Clow F-6136 or equal. The design working pressure (250 psi) and the test pressure (500 psi) shall be cast on the outside of the valve. All valve exterior and interior surfaces must be fusion epoxy coated conforming to AWWA C550.
- C. Hydrants.
- (1) All hydrants shall be manufactured in conformance with AWWA C502 standards with two two-and-one-half-inch National Standard thread hose nozzles and one pumper nozzle connection with a six-inch mechanical joint inlet connection and shall open left. All hydrants shall have an approved O-ring seal around operating stem and traffic-type break flange. Operating nut shall be National Standard pentagon shaped, one-and-one-half-inch point to flat face. All hydrants shall have a valved opening of not less than five inches and the barrel painted.
 - (2) All hydrants shall be Mueller Centurion, as manufactured by the Mueller Company.

- (3) All hydrant leads shall include an anchoring tee, gate valve and restraints on all joints between the tee and the hydrant. See Typical Hydrant Installation Detail, appended hereto.¹
- (4) At the completion of installation of the hydrant(s), they shall be painted with one coat of exterior enamel paint acceptable for potable water use. Color shall be red.

D. Installation of mains.

- (1) Standards. Specifications shall incorporate the provisions of the AWWA standards and/or manufacturer's recommended installation procedures.
- (2) Bedding. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six inches below the bottom of the pipe.
- (3) Cover. All water mains shall be covered with sufficient earth or other insulation to prevent freezing.
- (4) Blocking. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement.
- (5) Pressure and leakage testing. All types of installed pipe shall be pressure tested and leakage tested in accordance with the latest edition of AWWA Standard C600. Test pressure shall be 150 psi or 1 1/2 times the normal working pressure, whichever is greater.
- (6) Disinfection. All new, cleaned or repaired water mains shall be disinfected by the continuous-feed method in accordance with AWWA Standard C651. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. Microbiological testing shall be done by a New York State approved laboratory. Tablet method of disinfection is not acceptable.

E. Separation of water mains, sanitary sewers and storm sewers.

- (1) General. The following factors should be considered in providing adequate separation:
 - (a) Materials and type of joints for water and sewer pipes.
 - (b) Soil conditions.
 - (c) Service and branch connections into the water main and sewer line.
 - (d) Compensating variations in the horizontal and vertical separations.
 - (e) Space for repair and alterations of water and sewer pipes.

1. Editor's Note: The Typical Hydrant Installation Detail is included at the end of this chapter.

- (f) Off-setting of pipes around manholes.
 - (2) Parallel installation. Water mains shall be laid at least 10 feet horizontally from any existing or proposed sewer. The distance shall be measured edge to edge. In cases where it is not practical to maintain a ten-foot separation, the Highway Superintendent, Town Engineer or other duly authorized officials of the Town and the Albany County Department of Health may allow deviation on a case-by-case basis, if supported by data from the design engineer. Such deviation may allow installation of the water main closer to a sewer, provided that the water main is laid in a separate trench or on an undisturbed earth shelf located on one side of the sewer at such an elevation that the bottom of the water main is at least 18 inches above the top of the sewer.
 - (3) Crossings. Water mains crossing sewers shall be laid to provide a minimum vertical distance of 18 inches between the outside of the water main and the outside of the sewer. This shall be the case where the water main is either above or below the sewer, with preference to the water main located above the sewer. At crossings, one full length of water pipe shall be located so both joints will be as far from the sewer as possible. Special structural support for the water and sewer pipes may be required.
 - (4) Exception. The Superintendent of Highways, the Town Engineer or other duly authorized officials of the Town and the Albany County Department of Health must specifically approve any variance from the requirements of Subsections E(2) and E(3) of this section, when it is impossible to obtain the specified separation distances. Where sewers are being installed and Subsections E(2) and E(3) of this section cannot be met, the sewer materials shall be water main pipe or equivalent and shall be pressure tested to ensure water tightness.
 - (5) Force mains. There shall be at least a ten-foot horizontal separation between water mains and sanitary sewer force mains. There shall be an eighteen-inch vertical separation at crossings as required in Subsection E(3) of this section.
 - (6) Sewer manholes. No water pipe shall pass through or come in contact with any part of a sewer manhole.
 - (7) Separation of water mains from other sources of contamination. Design engineers should exercise caution when locating water mains at or near certain sites such as sewage treatment plants or industrial complexes. Individual septic tanks must be located and avoided. The engineer must contact the Superintendent of Highways, Town Engineer or other duly authorized officials of the Town and the Albany County Department of Health to establish specific design requirements for locating water mains near any source of contamination.
- F. Surface water crossing. Surface water crossings, whether over or under water, present special problems. The Superintendent of Highways and/or the Town Engineer should be consulted before final plans are prepared.
- (1) Above-water crossings. The pipe shall be adequately supported and anchored, protected from damage and freezing and accessible for repair or replacement.

- (2) Underwater crossings. A minimum cover of two feet shall be provided over the pipe. When crossing watercourses which are greater than 15 feet in width, the following shall be provided:
 - (a) The pipe shall be of special construction, having flexible watertight joints.
 - (b) Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible, and not subject to flooding; and the valve closest to the supply source shall be in a manhole.
 - (c) Permanent taps shall be made on each side of the valve within the manhole to allow insertion of a small meter to determine leakage and for sampling purposes.
- G. Cross-connections and interconnections. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into the system. Each water utility shall have a program conforming to state requirements to detect and eliminate cross-connections.

§ 182-20. Water service laterals.

A. General.

- (1) As water pipe is installed in the development of Town highways, all laterals shall be laid to the front line of each lot, before roadway pavement is constructed. At locations where roadway pavement already exists, the services shall be installed without digging up the pavement. The exact method used by the contractor to accomplish this purpose shall be left to his ingenuity, but the result accomplished and the method must receive the approval of the Superintendent of Highways, the Water Inspectors or other duly authorized officials of the Town. Where, in the opinion of the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town, the service cannot be installed without digging up the pavement, written permission may be given to the contractor to install the service in open cut. The property owner or contractor must obtain a highway street permit from either the New Scotland Highway Superintendent, Albany County Highway or New York State DOT.
- (2) Where services are frozen, the applicant or consumer will, at his own expense, thaw out the pipe between the property and the water main. If examination of the service pipe declares that the depth of cover is less than five feet minimum, the Town reserves the right to request that the service pipe be lowered to prevent the pipe from freezing.
- (3) The service from the water main to the curb box shall be a minimum size of 3/4 inch for a one-family residence. Size of service laterals for buildings other than one-family residence shall be approved by the Superintendent of Highways, Water Inspector or other duly authorized officials of the Town.

- (4) In no case shall permission be granted to supply two or more premises from a single tap, nor shall there be more than one service supply pipe to any premises without special permission in writing from the Superintendent of Highways, Water Inspector or other duly authorized officials of the Town.
- B. Installation of water service lateral and tapping of main. Where a preexisting dwelling exists or a new building is being constructed and the water main has not been tapped and brought to the property line with a curb box installed, it will be the responsibility of the property owner(s), including excavation, pipe work, backfill, replacement of pavement, etc. All work shall be done in strict accordance with all applicable Town standards.
- C. Connection of water service lateral, conformity required. The connection of the water service lateral into the public water main shall conform to the requirements of this chapter and to New York State Department of Health and the American Water Works Association or federal specifications. Connections shall be made watertight and verified by proper testing. Any deviation from the prescribed procedure and materials must be approved by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town, before installation.
- D. Applicants to notify the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town for purposes of inspection. The application for the water service permit shall notify the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town 24 hours in advance of when the water service lateral is ready for inspection and connection to the public water main. The connection and testing shall be made under the supervision of the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.
- E. Direct water service connection between house service lateral and building required.
- (1) The property owner's water connection between the house water service lateral at the property line and the building shall be a direct connection. Ten feet between a water service lateral and a sanitary sewer lateral is required in accordance with the New York State Department of Health Regulations.
- (2) When connecting an existing structure served by a well to a new water service, the structure's supply plumbing shall be physically disconnected between the plumbing to be serviced by the public water system and the private well. Nonpotable piping shall be so labeled separate, independent supply plumbing system from the private well is allowable.
- F. Information required to determine compliance. The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town may require a user of the water service to provide information needed to determine compliance with this chapter.
- G. Copper service pipe. Copper pipe shall be type K soft copper tubing, annealed after coiling and conforming to the requirements of the latest ASTM designation B-88. All couplings required to join sections of tubing shall be compression connections similar or equal to the Mueller H-15403 coupling, copper to copper.

- H. Corporation stops. Corporation stops shall be Standard Water Works Corporation stops similar or equal to Style H-15008 (3/4 inch and one inch) and H-15013 (1 1/2 inches and two inches) corporation stop with compression connection for use with copper tubing, as manufactured by the Mueller Company, or equal. Corporation stops shall have Mueller thread on the inlet.
- I. Curb stops and boxes. Curb stops shall be Standard Water Works ground key type, T-handle, curb stops, without drain, similar or equal to the Mark III Oriseal Style H-1504-2 (3/4 inch and one inch), and Mark II Oriseal Style H-15209 (1 1/2 inches and two inches) with compression connection for copper tubing on the inlet and outlet as manufactured by the Mueller Company, or equal. Curb boxes shall be of the arch pattern extension type with a one-piece lid designed for installation on service lines having a cover of five to 6 1/2 feet. All boxes shall be equipped with a stationary rod with a malleable iron fork and copper pin. Curb boxes shall be similar or approved equal to Style H-10314 for three-fourths-inch to one-inch curb stops and Style H-10386 with foot piece for one-and-one-fourth-inch to two-inch curb stops, as manufactured by Mueller Company, or equal. The word "Water" shall be lettered on the box covers.
- J. Installation.
- (1) In general, copper service pipe shall be installed at a depth of five feet below the finished grade. The copper tubing shall be attached to the corporation stop in a satisfactory manner and with sufficient slack being left adjacent to the corporation stop and curb stop to prevent damage to the copper tubing by movement of the earth or pipeline.
 - (2) In cutting the copper tubing, a hacksaw, preferably used with a miter box, may be used. A cutter or tool designed for tube cutting may be used also. All cut tubing shall be reamed.
 - (3) All services shall be tested for leakage. The corporation stops shall be left in the open position and curb stops in the closed position.
 - (4) Tapping the main. The main in all instances shall be tapped on the side in a horizontal position or in such position as will provide approximately five feet of cover over the connecting service line. The main shall be tapped by a skilled workman and the stop installed in accordance with most modern methods. The stops may be installed in the dry at the time the pipe is installed, or may be installed at a later date at which time the main may be tapped under pressure. All defective taps shall be remedied at the contractor's expense.
 - (5) See Typical Water Service Connection Detail appended hereto.²

§ 182-21. Meters.

All water furnished to users shall be measured by meters. Meters shall be procured from the Town of New Scotland, except meters two inches and larger, and paid for by the property

2. Editor's Note: The Typical Water Service Connection Detail is included at the end of this chapter.

owner(s). Said meters shall become the property of the water district in which they are installed. The cost of repairing any water meter damaged by the user or property owner(s) of the serviced property shall be a charge against said owner(s).

- A. Meters 1 1/2 inches and smaller for household installation shall be Town supplied, 5/8 inches x 3/4 inches frost-proof meters reading in gallons. Two-inch and larger shall be approved by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town, shall be purchased by the owner and shall become the property of the water district.
- B. One meter shall be installed for each water service.
- C. No meter shall be installed, removed, unsealed, or altered by other than an authorized official of the Town, when so directed by the Superintendent of Highways. Failure by the user or property owner(s) to report a broken seal to the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town shall be in violation and punishable as set forth in §§ 182-16 and 182-17 of this chapter.
- D. Master meters shall be installed on water distribution mains where the supply of water for the district is taken from another community's supply system.
- E. Meter setting.
 - (1) All meters shall be set as nearly as possible at the point of entrance of the service pipe to the building, and the property owner shall provide and maintain a clean, dry, warm and accessible place for the meter installation. A water shutoff shall be provided on the main side of the meter installation. The meter shall be installed with a meter setter or couplings to facilitate its removal, and the coupling nuts shall be equipped with meter sealing wire holes. If additional or auxiliary meters are desired by the user for recording distribution of the supply, such meters shall be furnished, installed, read and maintained at the expense of the owner.
 - (2) In the event that a building is more than 150 feet from the main, the meter shall be installed in a meter pit. The meter pit shall be installed as close as possible to the curb box and no greater than five feet from the curb box and at the owner's expense.
- F. Cross-connections. No cross-connection between the public water supply system and any household well or other supply will be allowed. Household wells may be used for lawn sprinkling and other purposes if they are physically and permanently disconnected from the public water supply. The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town will not issue a permit for water service in any building until a cross-connection is eliminated.
- G. In districts where pressure-reducing valves are required on service lines, the pressure-reducing valves will be procured from the Town and paid for by the property owner at the time of meter procurement.

§ 182-22. Installation of meters; pressure regulators; testing.

- A. All buildings in the Clarksville Water District, where required by the Town, shall install a pressure regulator prior to meter installation. The owner will be responsible for all costs associated with the furnishing, installation and maintenance of the pressure regulator.
- B. All buildings in the Swift Road Water District shall install a pressure regulator prior to meter installation. The customer will be responsible for all costs associated with the furnishing, installation and maintenance of the pressure regulator.
- C. An individual meter shall be required for each separate line to a premises, except in such areas designated by the Superintendent of Highways, the Water Inspector, or other duly authorized officials of the Town Board. The users of water shall at no time tamper with the meter. Any tampering with the water meter shall constitute a violation of this chapter.
- D. The meter shall be purchased from the water district and shall remain the property of the water district in which installation shall be made. Installation of the meter will be made by the owner or his authorized contractor after a permit is obtained.
- E. Meter pits shall be not less than three feet by three feet with a depth of no less than five feet six inches. The cover shall be no smaller than two feet by two inches to allow entry for installing and maintaining the meter. The meter pit shall be set above ground water elevation and shall be constructed to prevent flooding. The meter pit shall be insulated to prevent freezing.
- F. Meters larger than one inch shall be compound meters and furnished and installed by the contractor at the owner's expense and shall be placed in an area designated by the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town, and all expense in connection with its proper housing, including a bypass for testing, shall be borne by the owner. Such meters shall be maintained and repaired at the expense of the owner.
- G. Diagram of pit and proper piping shall be approved by the Superintendent of Highways, the Water Inspector, Town Engineer and/or designated engineer, or other duly authorized officials of the Town.
- H. The Town reserves the right to remove, test, and repair any meter at any time.
- I. If any premises is vacated, the owner may, on written notification to the Superintendent of Highways, the Water Inspector or the duly authorized official of the Town, request that the water meter be removed and stored. During the period the meter is out of service, no charge for water services will be made. Capital costs will still apply. When water service is again requested, the Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town will reestablish service for a minimum charge of not less than \$50.
- J. Meters will at all times be protected from freezing. In the event the meter is damaged by freezing or other external cause, the Superintendent of Highways, the Water Inspector, or other duly authorized officials of the Town will replace the meter and a bill will be rendered to the property owner for the cost of repairs.

- K. The Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town will maintain, repair and test when necessary all meters. They reserve the right to remove and test the meters as required. In case of a disputed account involving the accuracy of a meter, the Superintendent of Highways, the Water Inspector or the duly authorized official of the Town will test the meter upon the request of the owner. A fee in accordance with Article VI payable in advance of the test is required. In the event that the meter is found to over-register in excess of 2% at any flow rate within the normal test flow limits, the fee will be returned to the customer; otherwise it will be retained by the water district.

§ 182-23. Wells.

- A. All wells developed, or existing wells proposed for use as a community water supply in the formation of a water district, shall comply with the Recommended Standards For Water Works (latest revision) and all the rules and regulations of the New York State Department of Health, the New York State Department of Environmental Conservation and any other regulatory agency having jurisdiction.
- B. Each wellhead shall be protected and controlled by direct ownership of the land by the Town of New Scotland. The developer of the well site shall convey ownership of land surrounding the wellhead, having a minimum radius of 200 feet, or additional distance as determined to be needed for protection of the well, to the Town of New Scotland. This area shall be protected from pollution by surface waters by the construction of suitable diversion ditches or embankments.
- (1) Wellhead protection.
- (a) All well sites shall have a wellhead protection area which comprises the land surface surrounding the water well or well field. This is an area through which a wide range of pollutants and contaminants could potentially travel towards the groundwater.
- (b) The wellhead protection area shall be circular in area, having a minimum radius of 1/4 mile. In the event that the well site has multiple wells, the radius of the wellhead protection area shall be such that its distance from the center of the well field shall be not less than 1/4 mile from any well on the site.
- (c) The dimension of the radius of the wellhead protection area may vary depending on the aquifer, topography, man-made features or other factors, as determined by the Town Highway Superintendent. Disposal of hazardous chemicals or waste is prohibited within the wellhead protection area. No septic system shall be constructed within a two-hundred-foot distance of any well. No chemicals, fertilizers or other type of material that may contaminate the groundwater shall be stored within 200 feet of any well.
- (2) Fencing and signs.

- (a) Fencing. Well sites shall be surrounded by six-foot-high chain link fencing. The minimum area fenced for a single well is 30 feet by 30 feet unless otherwise approved by the Town Superintendent of Highways. The area to be fenced for sites with multiple wells shall be determined by the Town Superintendent of Highways based on existing site conditions.
 - (b) Signs. There shall be a minimum of four signs mounted on the fence surrounding wells. The signs shall clearly indicate that within a certain number of feet of this location is a wellhead protection area. The sign shall also indicate that any illegal dumping should be reported to a twenty-four-hour hotline number.
- (3) Inventory of potential sources. In association with developing a well site, the developer's engineer shall canvass the wellhead protection area and inventory potential contamination sources and potential conduits for contamination. The engineer's report shall indicate the topography of the area, possible sources of contamination (i.e., gas station, industrial site, etc.) and possible conduits by which chemicals or other contaminants could be conveyed towards the well site (i.e., spill from tank truck accident). Potential sources of contamination include, but are not limited to, fertilizers, pesticides, paint residues, animal feedlot wastes, stormwater runoff and toxic chemicals.
- (4) Working in well site areas. Every precaution shall be taken by persons working in the well site area (two-hundred-foot radius of the well) to protect the area from contamination by construction materials and equipment. When hydraulically operated equipment or other equipment could discharge materials that could contaminate the watershed, precautions shall be taken to protect the ground surface under and around the equipment. Sheets of plastic shall be used, as a minimum, to collect fluids that may drip from beneath equipment. Equipment that has excessive leakage of fluids shall be removed from the site.

ARTICLE X Water Billing Charges

§ 182-24. Water rents and water usage fees to become liens; minimum charge.

- A. Water rents and water usage fees shall be liens against real property within all the Town of New Scotland water districts to the extent as set forth in § 452 of the General Municipal Law.
- B. Water rents and water usage fees provided herein are charges in addition to any water assessments that may be levied from time to time against real property in said water districts. Water rents shall be charged against properties connected to the water system in such amounts as established by the Town Board pursuant to § 452 of the General Municipal Law.
- C. There will be a minimum charge for 15,000 gallons of water usage per water billing. This minimum gallonage charge will apply to new districts formed subsequent to the date

of this chapter. Existing districts formed prior to this chapter will remain at their minimum charge billing amount.

§ 182-25. Collection of water rents and water usage fees; penalties and interest.

- A. Water usage rates and operation and maintenance charges for the water districts shall be reviewed annually by the Town Board so that this fee can be changed, adjusted or modified as required.
- B. Water rents and water usage fees shall be payable within 30 days from date of billing. Any bill not paid within 30 days shall be subject to a penalty charge of 5% and interest charge of 1% per month.

§ 182-26. Special water rates for noncompliance with meter installation.

It is anticipated that all property owners paying for water in all Town water districts will comply with the regulations for the installation of water meters. However, any such property owner(s) who may fail to install a meter shall be billed a penalty for water usage of \$100 per month of usage according to the following schedule:

- A. New building: beginning 30 days after the water service lateral has been inspected by the Superintendent of Water, the Water Inspector or other duly authorized officials of the Town unless prior arrangements have been made with the Town Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.
- B. Modification to existing building: beginning 30 days after issuance of building permit unless prior arrangements have been made with the Town Superintendent of Highways, the Water Inspector or other duly authorized officials of the Town.

§ 182-27. Delinquent accounts.

On November 1 of each year, the clerk of the district shall furnish Albany County Bureau of Real Property Taxes a list of all delinquent water bills for relevy and collection which will be added to the property tax bill pursuant to § 198-3 of the General Municipal Law.

**ARTICLE XI
Liability of Town**

§ 182-28. No liability for interrupted or unsatisfactory service.

- A. If, by reason of shortage of supply or for the purpose of making repairs, extensions, connections, or placing of meters, or for any reason beyond the control of the Town, it becomes necessary to shut off water in a main or service, the Town will not be responsible for any damages occasioned by such shutoff, and no adjustment of rates will be allowed. Notice of shutoff will be given when practicable, but nothing in this rule shall be construed as requiring the giving of such notice.

- B. The Town will not be responsible for damage caused by discolored water or unsatisfactory water service which may be occasioned by cleaning of pipes, reservoirs, or standpipes, or the opening or closing of any valves or hydrants, or any abnormal condition, unless caused by the lack of reasonable care on the part of the Town. The Town of New Scotland will not be responsible for meeting unusually high water demands or unusually high quality standards for specialized or industrial customers.

ARTICLE XII

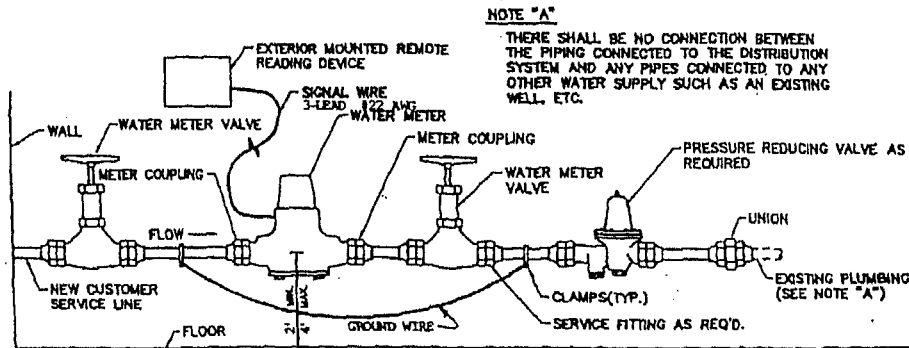
Details

§ 182-29. Details.

The following details are included at the end of this chapter:

- A. Installation Detail for Water Meters and Remote Reading Devices.
- B. Typical Water Service Connection.
- C. Typical Hydrant Installation.

WATER USE



NOTE "A"

THERE SHALL BE NO CONNECTION BETWEEN THE PIPING CONNECTED TO THE DISTRIBUTION SYSTEM AND ANY PIPES CONNECTED TO ANY OTHER WATER SUPPLY SUCH AS AN EXISTING WELL, ETC.

INSTALLATION DETAIL FOR WATER METERS AND REMOTE READING DEVICES

N.T.S.

1. Install Type K Copper tubing from corporation stop to building, five feet deep.
2. Meters are to be kept readily accessible to meter readers.
3. Curb box and accessibility to be maintained by property owner.
4. Meter to read in gallons.
5. Minimum 4 inches between the wall and the meter.

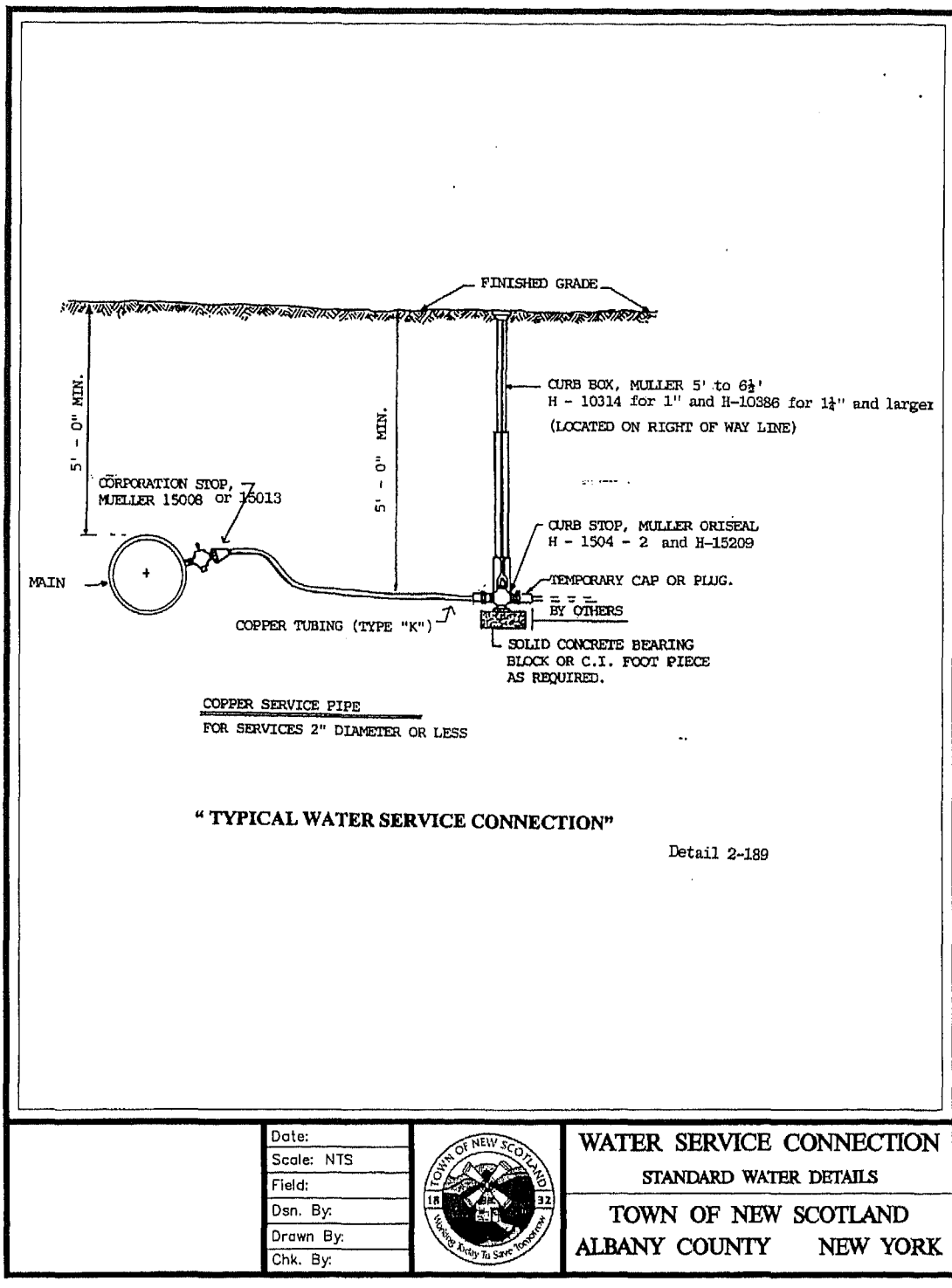
Detail 1-189

Date:
Scale: NTS
Field:
Desn. By:
Drawn By:
Chk. By:

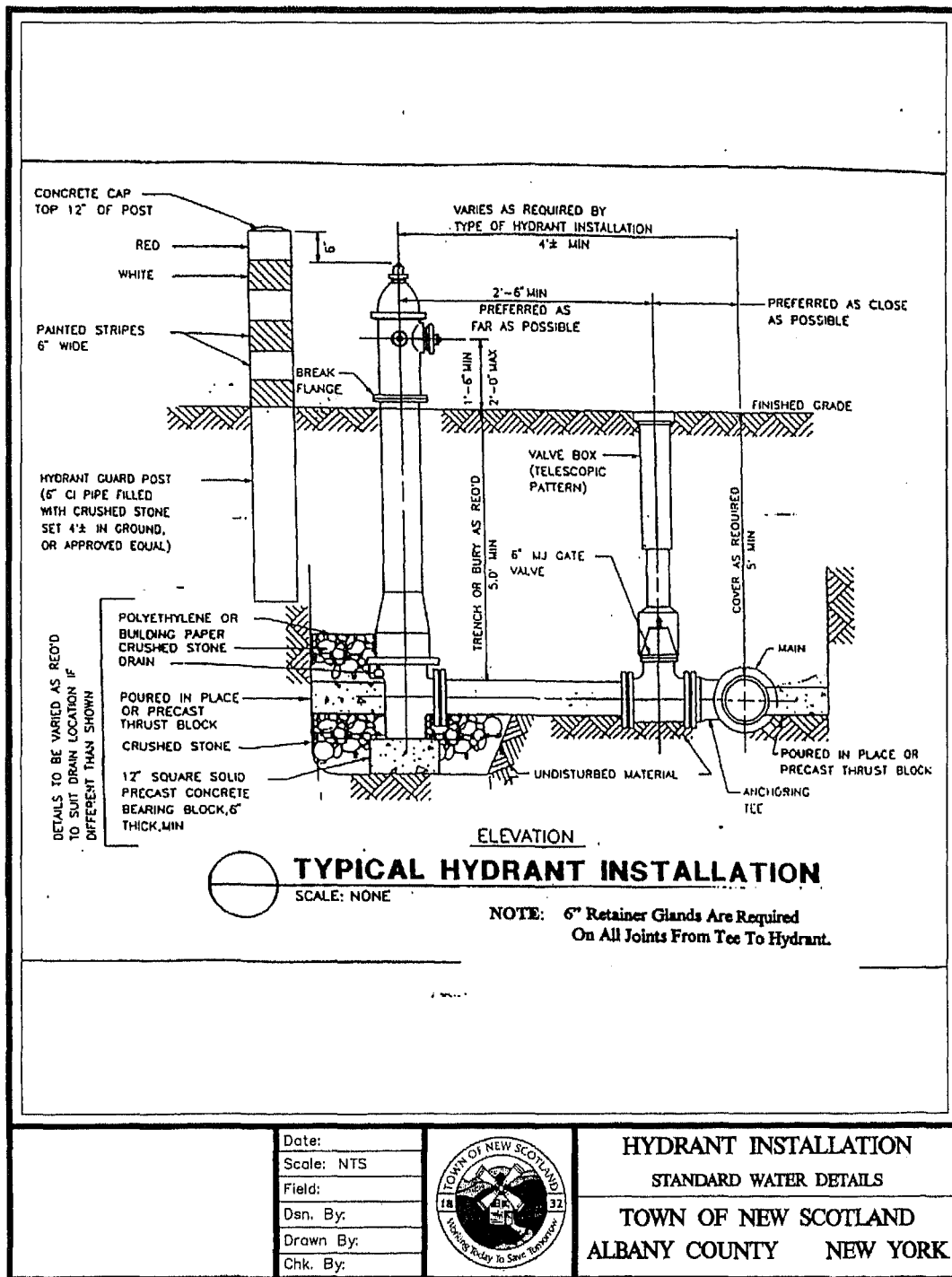


WATER METER INSTALLATION
STANDARD WATER DETAILS
TOWN OF NEW SCOTLAND
ALBANY COUNTY NEW YORK

WATER USE



WATER USE



Date:
Scale: NTS
Field:
Dsn. By:
Drawn By:
Chk. By:



HYDRANT INSTALLATION
STANDARD WATER DETAILS
TOWN OF NEW SCOTLAND
ALBANY COUNTY NEW YORK

Chapter 190

ZONING

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Zoning Map

§ 190-94. Town Board's authority to amend.

[HISTORY: Adopted by the Town Board of the Town of New Scotland 5-10-2000 by L.L. No. 3-2000; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Dumps — See Ch. 89.
Junkyards — See Ch. 116.

Subdivision of land — See Ch. 164.

ARTICLE I Title and Purpose

§ 190-1. Short title.

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

§ 190-2. Purpose.

This chapter 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 (this chapter) and the Comprehensive Land Use Plan, the provisions of the New Scotland Zoning Law (this chapter) shall be controlling.

§ 190-3. Interpretation of provisions.

In the interpretation and the application of the provisions of this chapter, 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 chapter 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 chapter shall control.

§ 190-4. Severability.

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

§ 190-5. Greater restrictions to prevail.

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 chapter, the provisions of such statute, other law or regulation shall be controlling.

ARTICLE II**Establishment and Designation of Districts****§ 190-6. Zoning Map and districts.**

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

RF - Residential Forestry

RA - Residential Agricultural

MDR- Medium Density Residential

R2 - Residential Conservation

RH - Residential Hamlet

CH - Commercial Hamlet

COM- Commercial

IND- Industrial

§ 190-7. 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.¹

§ 190-8. 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:

- A. 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.
- B. 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.
- C. 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.
- D. 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 distances therefrom as indicated on the Zoning Map.
- E. 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.
- F. In all cases where district boundary divides a lot in single or joint ownership and where 50% or more of the area of such lot lies in the less restricted district, the regulations described by this chapter for the less restricted district shall apply to the first 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 subsection, 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.

§ 190-9. Lots.

- A. Minimum lot size.
 - (1) Except as explicitly defined in this chapter, 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) Exceptions may be:

1. Editor's Note: A copy of the Zoning Map is included at the end of this chapter.

- (a) Lots to be under municipal and/or homeowner ownership; or
 - (b) Lots for green spaces; or
 - (c) Lots for stormwater management; or
 - (d) Lots for sports uses; or
 - (e) Lots required for any use, and under any ownership, as determined by the Planning or Zoning Board in their respective reviews.
- B. 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 chapter.
- C. Building location. All structures, except unattached accessory structures as regulated in § 190-29D of this chapter, 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.
- D. Preexisting lots. Any lot in existence prior to the effective date of this chapter, single and separate in ownership from that of any adjacent land, which does not meet the description of § 190-30F, 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.
- E. Number of buildings. There shall be not more than one dwelling structure on each zone lot, or parcel of land, intended or used for residential purposes except as allowed by special use for hotels or motels, cluster development and planned unit development or similar projects.

§ 190-10. 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.

§ 190-11. RF Residential Forestry.

- A. 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 nonintensive 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.

B. Bulk regulations.

Minimum Lot Area (acres)*	Minimum Lot Size Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
			Front	Side	Rear
3	200	125,000	50	50	50
1**	140	40,000	50	20	30

NOTES:

* In calculating the minimum acreage required of building lots, lands within the boundary of federal- or state-designated wetlands shall not be included.

** Homestead allowance: One, one-acre lot for each 10 acres in a parcel with the remainder of the parcel to be divided into three-acre, or larger, lots.

- (1) 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 traveled way.

C. Uses allowed by permit:

- (1) Forest management.
- (2) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (3) Single-family dwelling.
- (4) Private nonprofit and/or public.
- (5) Accessory uses.
- (6) Home occupation.
- (7) Day care.
- (8) Amateur radio towers.

D. Special uses:

- (1) Two-family dwelling.
- (2) Removal of fill, gravel or loam.

- (3) Temporary sawmill.
- (4) Water impoundment for recreation and storage outdoor recreational uses.
- (5) Summer camps and retreats.
- (6) Churches and cemeteries.
- (7) Private nonprofit and public recreational buildings.
- (8) Essential service structures.
- (9) Boarding and riding stable and/or arena.
- (10) Animal hospital, clinic and /or kennel.
- (11) Hogs and pigs.
- (12) Commercial radio or transmission towers.
- (13) Restaurants and taverns.
- (14) Day-care center.
- (15) Farming activity, personal.
- (16) Horses, less than five acres.

§ 190-12. RA Residential Agricultural.

- A. 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.
- B. Bulk regulations.

Class*	Minimum Lot Area (square feet)	Minimum Lot Size Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
				Front	Side	Rear
1	33,000**	100	30,000	40	25	30
2	44,000**	140	40,000	40	25	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-site water and/or sewage 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 17% shall not be included.

- (1) 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 traveled way.

C. Uses allowed by permit:

- (1) Forest management.
- (2) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (3) Single-family dwelling.
- (4) Private nonprofit or public outdoor recreational uses.
- (5) Accessory uses.
- (6) Home occupation.
- (7) Day care.
- (8) Amateur radio towers.

D. Special uses:

- (1) Cemeteries.
- (2) Water impoundment for recreation and storage.
- (3) Churches.
- (4) Essential service structures.
- (5) Farming activity, personal.
- (6) Boarding and riding stables and arenas.
- (7) Hogs and pigs.
- (8) Two-family dwellings.
- (9) Multifamily dwellings.

- (10) Private airports.
- (11) Mobile home park.
- (12) Animal hospital, clinic and/or kennels.
- (13) Private nonprofit and public recreational buildings.
- (14) Hospitals and clinics.
- (15) Nursing and convalescent homes.
- (16) Hotels/motels.
- (17) Restaurants and taverns.
- (18) Horses, less than five acres.
- (19) Day-care center.

§ 190-13. MDR Medium Density Residential.

- A. Statement of purpose. The Medium Density Residential areas generally have suitable soils and slopes for urban development, are accessible to other population centers, can feasibly be 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.
- B. Bulk regulations.

Class*	Minimum Lot Area (square feet)	Minimum Lot Size Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
				Front	Side	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

NOTES:

Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water or sewage disposal.

Class 3 - On-lot water and 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 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.

- (1) 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 traveled way.

C. Uses allowed by permit:

- (1) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (2) Single-family dwelling.
- (3) Private nonprofit or public outdoor recreational uses.
- (4) Accessory uses.
- (5) Day care.
- (6) Home occupation.
- (7) Forest management.
- (8) Amateur radio towers.

D. Special uses:

- (1) Two-family dwellings.
- (2) Multifamily dwellings.
- (3) Essential service structures.
- (4) Hospitals and clinics.
- (5) Nursing and convalescent homes.
- (6) Hotels/motels.
- (7) Restaurants and taverns.
- (8) Planned unit developments.
- (9) Horses, less than five acres.

- (10) Day-care centers.
- (11) Water impoundment for recreation.
- (12) Private nonprofit and public recreational buildings.
- (13) Churches.
- (14) Boarding and riding stables and/or arenas.
- (15) Cemeteries.
- (16) Animal hospital, clinic and/or kennels.
- (17) Farming activity, personal.

§ 190-14. R2 Residential Conservation.

- A. 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.
- B. Bulk regulations.

Minimum Lot Area (acres)*	Minimum Lot Size Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
			Front	Side	Rear
2	175	86,000	50	25	50
1**	145	43,000	50	25	30

NOTES:

* 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 17% shall not be included.

** Homestead allowance: One, one-acre single family building lot for each 11 acres in the parcel of land, with the remainder of the parcel to be divided into two-acre, or larger, lots.

- (1) Add 30 feet to 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, a line 25 feet from and parallel to the center line of the traveled way.

C. Uses allowed by permit:

- (1) Forest management.
- (2) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (3) Single-family dwelling.
- (4) Private nonprofit and public outdoor recreational uses.
- (5) Accessory uses.
- (6) Home occupation.
- (7) Day care.
- (8) Amateur radio towers.

D. Special uses:

- (1) Cemeteries.
- (2) Water impoundment for recreation and storage.
- (3) Churches.
- (4) Essential service structures.
- (5) Boarding and riding stables and/or arenas.
- (6) Two-family dwellings.
- (7) Private nonprofit and public recreational buildings.
- (8) Animal hospital, clinic and/or kennel.
- (9) Day-care center.
- (10) Farming activity, personal.
- (11) Horses, less than five acres.
- (12) Amateur radio towers.

§ 190-15. RH Residential Hamlet.

- A. Statement of purpose. Residential Hamlet is for residential-type uses where higher densities of development are compatible with the existing character of the neighborhood.
- B. Bulk regulations.

Class*	Minimum Lot Area (square feet)	Minimum Lot Size Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
				Front	Side	Rear
1	10,000**	100	7,500	30	15	30
2	20,000**	100	10,000	30	15	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

** 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 17% shall not be included.

Class 2 - On-site water and/or sewage disposal.

C. Uses allowed by permit:

- (1) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (2) Single-family dwelling.
- (3) Accessory uses.
- (4) Day care.
- (5) Private nonprofit or public outdoor recreation uses.
- (6) Home occupation.
- (7) Amateur radio towers.

D. Special uses:

- (1) Two-family dwellings.
- (2) Multifamily dwellings.
- (3) Essential service structures.
- (4) Hospitals and clinics.
- (5) Nursing and convalescent homes.
- (6) Private nonprofit and public recreational buildings.
- (7) Water impoundment for recreation and storage.

- (8) Churches.
- (9) Cemeteries.
- (10) Public or private schools.
- (11) Semipublic uses.
- (12) Professional buildings.
- (13) Rooming house.
- (14) Agricultural uses, less than five acres.
- (15) Horses, less than five acres.
- (16) Nonprofit lodges and social halls.
- (17) Day-care center.
- (18) Animal clinic.

§ 190-16. CH Commercial Hamlet.

- A. 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.
- B. Commercial bulk regulations.

Class	Minimum Lot Size (square feet)	Yard Dimensions Minimum Lot Size (feet)		Maximum Building Area for Each Store (square feet)	Minimum Yard Setbacks (feet)		
		Width	Depth		Front	Side	Rear
1	10,000**	100	100	4,000	30	15	30
2	20,000**	100	100	4,000	30	15	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water and/or sewage 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 17% shall not be included.

C. Residential bulk regulations.

Class*	Minimum Lot Size (square feet)	Minimum Lot Width (feet)	Minimum Lot Area Per Family (square feet)	Minimum Yard Setbacks (feet)		
				Front	Side	Rear
1	10,000**	100	7,500	30	15	30
2	20,000**	100	10,000	30	15	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water and/or sewage 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 17% shall not be included.

D. Uses allowed by permit:

- (1) Retail businesses.
- (2) Business office.
- (3) Banks.
- (4) Accessory uses.
- (5) Personal service outlets.
- (6) Mortuary funeral home.
- (7) Restaurants and taverns.
- (8) Home occupation.
- (9) Professional service outlets.
- (10) Clinics.
- (11) Day care.
- (12) Amateur radio tower.

E. Special uses:

- (1) Automobile service or filling station.
- (2) Dry cleaning.
- (3) Religious institution.
- (4) Community center.
- (5) Private nonprofit and public recreation.
- (6) Private club.
- (7) Parking area.
- (8) Auto sales and service.
- (9) Day-care center.
- (10) Self-storage buildings.
- (11) Single-family dwelling.
- (12) Two-family dwelling.
- (13) Multifamily dwelling.
- (14) Animal clinic.
- (15) Essential service structures.

§ 190-17. COM Commercial.

- A. 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.
- B. Commercial bulk regulations.

Class*	Minimum Lot Size		Minimum Yard Setbacks (feet)		
	Area (square feet)	Width (feet)	Front	Side	Rear
1	33,000**	120	50	15	15
2	44,000**	140	50	15	15

NOTES:

* Type of utility:

Class 1- Public water and sewer.

Class 2 - On-lot water and/or sewage 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 17% shall not be included.

C. Residential bulk regulations:

Class*	Minimum Lot Size		Minimum Yard Setbacks (feet)			
	Area (square feet)	Width (feet)	Minimum Lot Area			
			Per Family (square feet)	Front	Side	Rear
1	33,000**	120	30,000	30	15	30
2	44,000**	140	40,000	30	15	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water and/or sewage 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 17% shall not be included.

D. Uses allowed by permit:

- (1) Agriculture: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (2) Accessory uses.
- (3) Essential services.
- (4) Banks.
- (5) Restaurants and taverns.
- (6) Motels, hotels, and/or inn.
- (7) Theaters.
- (8) Clinics.
- (9) Commercial recreation.
- (10) Office, private or public.

- (11) Parking areas.
- (12) Retail business.
- (13) Professional services.
- (14) Day care.
- (15) Municipal buildings and facilities.
- (16) Home occupation.
- (17) Building supply facility.
- (18) Educational uses.
- (19) Amateur radio tower.

E. Special uses:

- (1) Single-family dwelling.
- (2) Two-family dwelling.
- (3) Multifamily dwelling.
- (4) Essential service structures.
- (5) Cemeteries.
- (6) Churches.
- (7) Automobile service or filling station.
- (8) Auto sales and service.
- (9) Shopping facilities consisting of more than one store.
- (10) Car washes.
- (11) Illuminated signs.
- (12) Self-storage buildings.
- (13) Animal hospital, clinic and/or kennel.
- (14) Day-care center.
- (15) Farming activity, personal.
- (16) Horses, less than five acres.

§ 190-18. IND Industrial.

- A. 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.
- B. Industrial bulk regulations.

Class*	Minimum Lot Size		Minimum Yard Setbacks (feet)		
	Area (square feet)	Width (feet)	Front	Side	Rear
1	40,000**	160	40	25	50
2	50,000**	200	40	25	50

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water and /or sewage 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 17% shall not be included.

- C. Residential bulk regulations.

Class*	Minimum Lot Size			Minimum Yard Setbacks (feet)		
	Area (square feet)	Width (feet)	Minimum Lot Area Per Family (square feet)	Front	Side	Rear
1	33,000**	130	30,000	30	25	30
2	44,000**	140	40,000	30	25	30

NOTES:

* Type of utility:

Class 1 - Public water and sewer.

Class 2 - On-lot water and/or sewage 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 17% shall not be included.

D. Uses allowed by permit:

- (1) Agricultural: farms and nurseries (more than five acres), including display and sale of products raised, except hogs and pigs.
- (2) Accessory uses.
- (3) Public facilities.
- (4) Offices, private or public.
- (5) Wholesale businesses.
- (6) Home occupations.
- (7) Public buildings.
- (8) Warehousing and distribution.
- (9) Self-service storage facilities.
- (10) 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.

E. Special uses:

- (1) Commercial and retail uses servicing the industrial area.
- (2) Research and testing laboratories.
- (3) Industrial parks.
- (4) Animal hospital, clinic and/or kennel.
- (5) Single-family dwelling.
- (6) Public garages.
- (7) Trucking terminal.
- (8) Essential service structures.
- (9) Horses, less than five acres.
- (10) Illuminated signs.
- (11) Auto wrecking facilities.
- (12) Municipal facilities.
- (13) Building or construction business.
- (14) Building supply facility.

- (15) Boarding and riding stables and/or arenas.
- (16) Composting of sludge, yard waste and other solid waste.
- (17) Agribusiness, including composting of cow, sheep and/or horse manure and associated bedding materials.
- (18) Industrial lot.
- (19) Farming activity, personal.

§ 190-19. Additional requirements and standards.

The following additional requirements and standards shall apply to all commercial and industrial uses, except in the Commercial Hamlet Zones.

A. Additional requirements:

- (1) Maximum building coverage ratio: 0.50.
- (2) Maximum impervious surface ratio: 0.75.
- (3) Maximum building height: 35 feet.
- (4) Minimum usable open space ratio: 0.25.
- (5) Minimum distance between principal buildings on the same site: 15 feet.

B. 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) 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.
- (3) 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.
- (4) Parking is not allowed in the area between the principal building front face and the pavement edge of any street or road unless a fifty-five-foot setback is provided for any structure, and a five-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.
- (5) Front, side and rear setbacks are to be landscaped as may be required by the Planning board.

- (6) A minimum buffer area of 30 feet in width is to be maintained between any commercial structure and a residential district or an existing dwelling in use.
- (7) Parking lots and service areas are to be paved in accordance with the pavement requirements of this chapter.
- (8) Existing lots of record having 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.
- (9) Existing lots of record having more than 180 feet but less than 500 feet of frontage on a street will be limited to two points of vehicular access to the street to service all development on the lot.
- (10) Existing lots of record having 500 feet or more of frontage on a street will be limited to two points of vehicular access to the street for up to 1,000 feet of frontage, plus one additional point of access to the street for each additional 500 feet of frontage on the street or portion thereof. These points of access shall service all development on the lot.
- (11) Prior to the division of all or any portion of any existing lot of record having a gross lot area of five acres or more or 500 or more feet 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 chapter.
 - (b) A plan should be conceptual in nature. It must identify major development opportunities and constraints associated with the site.
 - (c) In addition to the requirements contained in Article V of this chapter, 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 Standards and Regulations

§ 190-20. Applicability.

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

§ 190-21. Open space requirement.

Open space shall be required for any subdivision in compliance with Chapter 164, Subdivision of Land, of the Code of the Town of New Scotland . At least 10% of the area of any commercial or industrial development in either the COM or IND Zone 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.

§ 190-22. Cluster development. ²

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 facilitate 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.

§ 190-23. Off-street 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.

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 square feet of gross leasable area
Retail business and personal service establishments	1 for each 180 square feet of gross leasable area
Restaurants and taverns	1 for every 3 seats and 1 for each 2 employees
Industrial	1 for each 400 square feet of gross leasable area
Funeral homes	1 for each 75 square feet of floor space in slumber rooms, parlors and individual service rooms
Multifamily dwelling	1 1/2 per unit plus 1 additional space for each 10 units

§ 190-24. Use of parking areas.

- A. 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.

2. Editor's Note: See also Article VI, Cluster Development, of this chapter, and Article VI, Cluster Development, of Ch. 164, Subdivision of Land.

- B. Public, off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements as approved by the Planning Board.
- C. Handicap parking spaces are to be supplied in accordance with the Building Code of New York State.

§ 190-25. Design of off-street parking facilities.

The following parking area design standards shall apply to all uses except one- and two-family structures:

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

Parking Lot Sizes and Dimensions

Angle	Stall Width (feet)	Stall to Curb (19-foot stall) (feet)	Aisle Width (feet)	Curb Length Per Car (feet)
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

NOTES:

* Two-way circulation.

** One-way circulation.

- 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 10 feet in width for one-way traffic and 20 feet in width for two-way traffic, except that eighteen-foot-wide driveways are permissible for two-way traffic when the driveway is not longer than 50 feet 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 parking space for every 40 parking spaces which is to be located to allow for no more than 20 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 inches caliper with branches no lower than seven feet. A minimum of one 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 chapter.

- E. A screen planting of appropriate plant material 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 50 feet.

§ 190-26. Off-street loading for all commercial and industrial uses.

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.

§ 190-27. Off-street loading design standards.

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

Square Feet	No. of Spaces
5,000 to 79,999	1
80,000 to 127,999	2
128,000 to 191,999	3
192,000 to 255,999	4
256,000 to 319,999	5
320,000 to 391,999	6
Plus one space for each additional 72,000 square feet or fraction thereof	

NOTES:

* A minimum distance of 12 feet by 55 feet and overhead clearance of 14 feet above street grade is required.

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 chapter.

- E. A screen planting of appropriate plant material 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 50 feet.

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- 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	
Square Feet	No. of Spaces
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128,000 to 191,999	3
192,000 to 255,999	4
256,000 to 319,999	5
320,000 to 391,999	6
Plus one space for each additional 72,000 square feet or fraction thereof	

NOTES:

* A minimum distance of 12 feet by 55 feet and overhead clearance of 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 there exists a lot with one or more structures on it constructed before the effective date of this chapter, and a change in use not involving any enlargement of a structure is proposed for such lot, and 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 as determined by the Planning Board.
- 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.

§ 190-28. Pavement requirements.

The following pavement design standards shall apply. 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:

- A. 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 inches of suitable subbase material in compliance with NYSDOT Standard Specification Type 4 equivalent gravel.
 - (1) Areas with poor soil conditions may require additional subbase material per Town Engineer's recommendation. Under extremely soft soil conditions, a soil stabilization fabric may also be deemed necessary and required after review by the Town Engineer.
 - (2) All areas of heavy duty pavement will be surfaced with a bituminous material unless an equivalent is approved by the Town Engineer. Bituminous surfacing is to consist of one inch of compacted Type 7 or 7F NYSDOT equivalent top course and a three-inch compacted Type 1 NYSDOT equivalent base course for a total bituminous material thickness of at least four inches. Should unsuitable subsurface soil conditions exist, additional bituminous base course may be required as per Town Engineer's recommendation.
- B. Parking stall areas likely to experience similar light traffic are to be paved not less than six inches of NYSDOT Type 4 equivalent gravel.

- (1) Bituminous surfacing is to be used unless an equivalent is approved by the Town Engineer. Bituminous surfacing is to consist of one inch of compacted Type 7 or 7F NYSDOT equivalent top course and a two inch compacted Type 3 or Type 1 NYSDOT equivalent binder or base course for a total compacted bituminous material thickness of at least three inches. Should unsuitable subsurface soil conditions exist, additional bituminous binder or base course may be required as per Town Engineer's recommendation.
- C. All parking areas, regardless of size and location, shall be suitably drained and maintained with slopes on paved surfaces established between 2% and 8% in parking stall areas and with driveway grades no greater than 12% grade.
- D. All off-street parking lots are to be adequately demarcated with painted lines or other markings to indicate traffic flow and parking spaces.
- E. Granite, concrete and/or precast concrete curbing is to be installed, as required, to adequately control stormwater 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.
 - (1) All concrete curbing will have a twenty-eight-day compressive strength of 4,000 psi. Expansion joints are to be provided at intervals not to exceed 20 feet and to be sealed. Curb vertical face exposure is to be at least six inches above the pavement surface.
 - (2) Granite curbing is to be constructed to show a vertical face above the pavement surface of at least six inches.

§ 190-29. Yard and height regulations.

- A. Coverage. In all districts, structures may not cover more than 30% of the lot except in COM or CH Districts, where commercial uses shall not cover more than 50% 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.
- B. Height regulations.
 - (1) In the case of single-family dwelling, no building shall exceed two stories, with a maximum height of 35 feet.
 - (2) In the case of a building other than a single-family dwelling, including commercial and industrial buildings, and/or structures, no part thereof shall exceed three stories with a maximum height of 45 feet, except church spires or belfries, windmills, solar panels, silos and smoke stacks. No such structure shall hinder solar access of any adjacent parcel of land.
- C. Front yard setback. Notwithstanding provisions for front yards elsewhere in these regulations, on streets with less than fifty-foot right-of-way or where the right-of-way

line is not known, the front yard requirement shall be measured from a point 25 feet from the center line of the existing roadway.

- D. Accessory structures. Maximum permitted height for unattached structure shall be 20 feet, except that the maximum permitted height may be increased up to 35 feet if lot size is three or more acres and front, side and rear setbacks are each at least 50 feet.

(1) Maximum yard regulations.

- (a) 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 feet of any other property line.
- (b) 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 chapter applicable to the principal building.
- (c) Nonresidential accessory structures. Nonresidential 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 10 feet.

§ 190-30. Nonconformance.

- A. Continuation and prior approval. A use, building or structure, lawful prior to the adoption or subsequent amendment of this chapter, may continue, although not in conformance with this chapter. Nothing herein shall require any change in the plans, construction or designated use of a structure in compliance with previous laws for which a final permit had been duly granted prior to the date of adoption of this chapter or any applicable amendment thereto.
- B. Maintenance and enlargement of nonconforming structures. A structure in lawful existence prior to the adoption or subsequent amendment of this chapter 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 chapter, and does not increase the degree of any nonconformity.
- C. Regulation of nonconforming uses.
 - (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 chapter.
 - (2) Repairs, maintenance or structural additions to a nonconforming 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 nonconforming 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 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. The applicant shall submit 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 owner's name and address. If the applicant is not the owner, the applicant's name, address and interest in the property, if different than the subject property address; the current zoning district classification and present use of the subject property.
 - [2] If represented by others, a statement of consent by the property owner allowing for the representation.
 - [3] A written general description of the proposed project.
 - [4] A copy of the deed of record documenting ownership of the subject property.
 - [5] A minimum of 12 copies of a site plan, at a scale of one inch to 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, stormwater facilities, building elevations, site contours and general building layout or floor plan and any other planned improvements.

D. Termination of a nonconforming use.

- (1) Abandonment. The discontinuance of a nonconforming use for a period of one 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-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.
 - (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.
- E. Damage or destruction.
- (1) Partial damage.
 - (a) Where any structure containing a nonconforming use is partially damaged or destroyed by any means to the extent of 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 year to apply for a building permit. In the event the building remains vacant for one year without application for a building permit, it shall constitute an abandonment and such nonconforming use shall not be revived.
 - (2) Substantial damage or destruction of a nonconforming 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 50% of the cost of replacement of such structure new, such structure and use shall not be restored unless the structure and use thereof shall conform to all current regulations of this chapter.
 - (3) Substantial damage or destruction of a nonconforming structure. In the event that any nonconforming structure is substantially damaged or destroyed, by any means, to the extent of more than 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 chapter.
- F. Nonconforming lots. A nonconforming lot officially subdivided prior to the effective date of this chapter may be utilized as if it were a conforming lot provided that all of the following conditions are met:
- (1) The proposed use is allowed within the district under the provisions of this chapter.
 - (2) 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-foot minimum frontage is required on a public road.

- (3) The use conforms to all other applicable local, county, state and federal land use regulations including New York State SEQRA requirements.³
- (4) The site possesses adequate water and sewer capacity as verified by the Albany County Department of Health, as required.

§ 190-31. Temporary construction 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.

§ 190-32. Signs.

Signs may be erected and maintained only when in compliance with the provisions of this § 190-32 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.

A. Signs in residential districts:

- (1) Residential and accessory home occupations, professions and trades. One sign attached flat against a wall of the building, not to exceed two square feet, and one detached sign, not to exceed six square feet, for each dwelling unit providing the occupation or service on the premises.
- (2) Other permitted uses.
 - (a) In RH Districts, not more than two signs pertaining to a permitted use with a total area of not more than 10 square feet each.
 - (b) In RA and MDR Districts, not more than two signs pertaining to a permitted use with a total area of not more than 12 square feet each.
 - (c) In RF and R2 Districts, not more than two signs pertaining to a permitted use with a total area of not more than 16 square feet each.
- (3) For sale signs. In addition to any signs authorized by the preceding sections, one temporary, unlighted sign not over six square feet in area pertaining to lease or sale of the property on which it is displayed shall be permitted.

B. Signs in Industrial, Commercial and Commercial Hamlet Districts:

- (1) Attached business sign (including temporary signs). Not more than three signs, not to exceed a total combined area of 50 square feet, attached flat against the wall of

3. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

the building, advertising the name of the firm or the goods or services available or produced on the premises.

- (2) Detached business signs (including temporary signs). One 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 25 square feet in area including the area of both sides if both are exposed to view.
- (3) Total sign area. The total sign area of all permitted signs for one permitted use under Subsection B(1) and (2) shall not exceed 75 square feet.
- (4) Attached home occupations professions and trades signs (including temporary signs). Not more than two signs, not to exceed a total combined area of 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 the premises.
- (5) Detached home occupation professions and trades signs (including temporary signs). One sign, not exceeding 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 the premises, not to exceed six feet in height.

C. General sign regulations, permanent and temporary.

- (1) Location. Signs may be erected only on the premises of the involved business, trade, profession, sale or home occupation.
- (2) Sign area. The maximum areas for signs set forth in this § 190-32 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 sign so long as the interior angle formed by the two display surfaces shall not exceed 15°.
- (3) Height of detached signs. No sign, not attached to a building, shall exceed 25 feet in height.
- (4) Attached signs. No sign attached to a building shall project above the peak of a roofline or parapet wall, whichever is the higher.
- (5) Detached sign setback. The setback for a sign not attached against a building shall be not less than 1/2 of the front building setback for the district involved.
- (6) 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 § 190-32.
- (7) Illuminated signs. Stationary or revolving illuminated signs are permitted in industrial and all commercial districts by special use permit only.

§ 190-33. 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.

§ 190-34. Home occupations.

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

- A. 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.
- B. The home occupation shall be carried on entirely within the dwelling.
- C. Exterior displays or signs, other than those permitted under § 190-32, 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.
- D. Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
- F. Parking shall be provided off-street and shall not be located in front yards except with special use permit.

§ 190-35. 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.

§ 190-36. Storage of motor homes, boats and trailers.

No motor home, boat or trailer 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 unsightly.

ARTICLE IV
Special Use Permits

§ 190-37. Purpose.

The purpose of special use permits is to provide for evaluation and approval of uses, beneficial and allowable, as a special use, 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 chapter, but rather assurance of compliance with provisions stated, which make special use permits compatible with other allowed uses within the zoning district.

§ 190-38. 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 article.

§ 190-39. Optional preapplication procedure.

Prior to filing a special use permit application as per § 190-40 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 chapter and the Town Comprehensive Land Use Plan.

A. Optional preapplication submission requirements.

- (1) An acceptable preapplication shall include the following:
 - (a) 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 50 feet of the property line of the site.
 - (b) A narrative explaining the nature of the proposed special use to the Inspector.
 - (c) The owner's name and address, zoning district classification and present use of the subject property. If the applicant is not the owner, the applicant's name, address and interest in the subject property.
 - (d) If represented by others, a statement of consent by the property owner allowing for the representation.
 - (e) A copy of the deed of record documenting ownership of the property.
- (2) 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 15 days, no more than 45 days from the date a complete sketch site plan is received by the Inspector. The applicant shall be provided at least five days' notice of the meeting by the Inspector.
- (3) The owner, or an agent authorized by the owner, 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 rescheduled exceeding the time limits established in Subsection A(2).

B. Preapplication review.

- (1) Upon review of a sketch site plan, the Planning Board may determine to waive or modify any of the application requirements of § 190-40, 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.
- (2) A record of the preapplication 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 chapter and other applicable county, state and federal laws and requirements.

§ 190-40. Special use permit application procedure.

A special use 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 nonrefundable special use permit application fee, as set forth by the Town Board, shall accompany each application. A special use permit application shall contain the following to be deemed complete:

- A. A completed application form, containing the owner's name, and address. If the applicant is not the owner, the applicant's name, address and interest in the property; the subject property address; the current zoning district classification and present use of the subject property.
- B. If represented by others, a statement of consent by the property owner allowing for the representation.
- C. A copy of the deed of record documenting ownership of the property.
- D. 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, etc.) of occupants anticipated to be accommodated by the project after completion.
- E. A minimum of 12 copies of a site plan, at a scale of one inch to 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 200 feet of the property boundaries and an indication of any water bodies or other sensitive environmental features lying within 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, stormwater 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, NY 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.
- F. The following site information shall be required and may be provided on the site plan or on additional drawings, as appropriate:
- (1) Location of any water bodies, floodplains, wetlands or other potentially sensitive environmental features.
 - (2) Location of topographic slopes in excess of 15% grade.
 - (3) Location of exposed bedrock and other significant geological features.
- G. A statement and documentation, as may be required by the Planning Board, or other section of this chapter, or other relevant Town code, describing the intended method of ownership and maintenance of open space.
- H. Copies of any applications or reports as required to comply with the State Environmental Quality Review Act.⁴
- I. Other elements integral to the proposed development necessary as determined by the Planning Board to carry out the intent of this chapter, including, but not limited to, environmental testing.
- J. The names and mailing addresses of all owners within 500 feet of the property boundary to which the application applies.
- K. A copy of the deed of record documenting ownership of the subject parcel.

§ 190-41. Application hearing.

- A. Within 62 days of receipt of a complete special use 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-b of New York State Town Law and any amendments thereof.
- B. In scheduling public hearings and review time frames, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations, as set forth in Town Law § 274-b.

4. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

§ 190-42. 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.

§ 190-43. Determination standards.

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, as determined by the following standards:

A. 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 this chapter, 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 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 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 chapter.
 - (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.⁵
 - (14) Proper facilities are to be installed in compliance with any applicable stormwater management plan or stormwater management requirements.
- B. 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.

§ 190-44. Determination.

The Planning Board shall render its decision within 62 days after the close of the public hearing. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. In its determination on the special use application the Planning Board may issue any one of the following decisions:

- A. Denial. If the Planning Board determines that the proposed use would not comply with the requirements of this chapter and in particular with the standards stated in § 190-43, it shall deny the application.
- B. Approval. If the Planning Board determines that the proposed use will comply with this chapter and in particular with the standards stated in § 190-43, the Board shall grant a special use permit for the proposed use.
- C. 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 § 190-43. Such conditions shall only go as far as to minimize or

5. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

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.

§ 190-45. Action on 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.

§ 190-46. 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 § 190-52, Site plan review.

§ 190-47. 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.

§ 190-48. Expansion or alteration of special use permit.

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.

§ 190-49. 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 year.
- B. Where a building permit is required in connection with a special use permit, it must be applied for and obtained within one 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 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.

§ 190-50. Exceptions.

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

§ 190-51. Existing violations.

No special use permit shall be issued for a property whereon there exists a violation of this chapter, or upon which a violation would exist if a special use 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**

§ 190-52. 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.

A. Applicability.

- (1) 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 filed with the Town Clerk.
- (2) 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:
 - (a) All commercial, industrial, educational, municipal facility or institutional development.
 - (b) All new multiple dwellings.
 - (c) Any expansion, or successive expansions within a three-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 20%, provided such expansion involves at least 500 square feet.
 - (d) Any conversion of an existing residential structure to a nonresidential use.
 - (e) Conversion or modification of any existing structure into a structure containing three or more dwelling units.

- (f) Any new development or expansion of a mobile home park.
 - (g) Any change of an existing nonresidential building from one type of use to another (example: conversion of a commercial structure to an industrial facility).
 - (3) This section does not apply to the construction of single-family homes, two-family dwellings and agricultural or forest management buildings or structures.
 - (4) Construction of a tower, as defined in this chapter, requires a special use permit, as outlined in Article IV of this chapter, and is subject to site plan review (this § 190-52), 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 Helderberg Mountains, but instead be contained in the area of existing towers.
- B. Optional preapplication procedure. Prior to filing a site plan application as per Subsection E, 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 chapter and the Town's Comprehensive Land Use Plan.
- C. Optional preapplication submission requirements.
- (1) An acceptable preapplication shall include the following:
 - (a) 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 50 feet of the property line of the site.
 - (b) A narrative explaining the nature of the proposed special use to the Inspector.
 - (c) The owner's name and address, the current zoning district classification and present use of the property. If the applicant is not the owner, include the applicant's name, address and interest in the subject property.
 - (d) If represented by others, a statement of consent by the property owner allowing for the representation.
 - (e) A copy of the deed of record documenting ownership of the property.
 - (2) 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 15 days, nor more than 45 days from the date a complete sketch site plan is received by the Inspector. The applicant shall be provided at least five days' notice of the meeting by the Inspector.
 - (3) The owner, or an agent authorized by the owner, 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 rescheduled exceeding the time limits established in Subsection C(2).

D. Preapplication review.

- (1) Upon review of a sketch site plan, the Planning Board may determine to waive or modify any of the application requirements of Subsection E, 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.
- (2) A record of the preapplication 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 chapter and other applicable county, state and federal laws and requirements.

E. 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 nonrefundable site plan application fee, as set forth by the Town Board, shall accompany each application. In scheduling public hearings and review time frames, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations, as set forth in Town Law § 274-a. A site plan application shall contain the following to be deemed complete:

- (1) The owner's name and address, the current zoning district classification and present use of the property. If the applicant is not the owner, include the applicant's name, address and interest in the subject property.
- (2) If represented by others, a statement of consent allowing for the representation.
- (3) A copy of the deed of record documenting ownership of the subject property.
- (4) A minimum of 12 copies of a site plan, at a scale of one inch to 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) Existing structures within 200 feet of the property boundaries and an indication of any water bodies or other sensitive environmental features lying within 200 feet of the site.
 - (c) 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, stormwater facilities and any other planned improvements.

- (d) Wells and effluent treatment systems serving the site and documentation of preliminary approval by the Albany County Department of Health, NY 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 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 of 15% grade.
 - (c) Location of bedrock and other significant geological features.
 - (6) A statement and documentation as may be required by the Planning Board or other section of this chapter or other relevant Town law describing intended method of ownership and maintenance of open space.
 - (7) Copies of any applications or reports as required to comply with the State Environmental Quality Review Act.⁶
 - (8) Other information determined by the Inspector or Planning Board as necessary to review the development for compliance with this chapter, including but not limited to building elevations, fences, plant materials, and elevations and front views of all signs to be employed at the project.
 - (9) A copy of the deed of record documenting ownership of the subject property.
- F. 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 may schedule a public hearing to receive comments on the application. Should the Planning Board decide to hold a public hearing on the application it must be held within 62 days from the day the application is received by the Planning Board.
- G. Determination standards. The Planning Board shall review the project to determine consistency with the following standards:
- (1) Site design:
 - (a) 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.
 - (b) 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.

6. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- (c) The proposed use, building design, and site layout complies with all applicable provisions of this chapter, as well as Town, state or federal laws or standards.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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 500 feet of the site.
- (h) 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 500 feet of the site from any adverse impacts that might result from the proposed use.
- (i) 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.
- (j) 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.
- (k) 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 chapter.
- (l) The proposed use has been approved by all other governmental entities and agencies which have jurisdiction.

- (m) The proposed use will comply with the requirements of the State Environmental Quality Review Act.⁷
 - (n) Proper facilities are to be installed in compliance with any applicable stormwater management plan or stormwater management requirements.
 - (2) 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.
- H. Determination. The Planning Board shall render its decision within 62 days after the close of the public hearing. Should a public hearing not be held the Planning Board shall render its decision within 62 days of receiving the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. In its determination on the site plan application the Planning Board may issue any one of the following decisions:
- (1) Approval. Upon approval of the site plan, the Planning Board shall file its decision with the Town Clerk within five days. The Inspector shall notify the applicant of approval.
 - (2) 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 the required modifications have been incorporated into the site plan the Planning Board shall endorse its approval on a copy of the site plan and shall file its decision with the Town Clerk within five days. The applicant shall be transmitted a copy of the same.
 - (3) Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Town Clerk within 45 days, and a copy thereof mailed to the applicant.
- I. Effect of issuance. A site plan approval 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.
- J. 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 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

7. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

carry out any administration or enforcement duties related to the expiration of a site plan permit.

- K. 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 § 190-52.
- L. 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.

§ 190-53. Planned unit development.

- A. 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 chapter. In no case shall the regulations of this article be so interpreted as to circumvent the benefits of this chapter for the owners or residents of such development, or the owners or residents of adjacent properties.
- B. The purpose of planned development shall be to encourage development which will result in:
 - (1) A choice in the types of environment and living units available to the public in residential land uses so that development will be a permanent and long-term asset to the Town.
 - (2) Open space and recreation areas.
 - (3) 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.
 - (4) An efficient use of land resulting in smaller networks of utilities and streets.
 - (5) An environment in harmony with surrounding development.
 - (6) A more desirable environment than would be possible through the strict application of other sections of the Law.
 - (7) Creation of new hamlets when needed to prevent the sprawl of the residential area.
 - (8) Encourage energy efficiency.
- C. Establishment of a planned unit development district.
 - (1) Application for the establishment of a planned unit development district by amendment of the Town Zoning Law (this Chapter 190, Zoning) shall be made in writing to the Town Board.

- (2) 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 chapter 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.
 - (3) 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.
 - (4) 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.
- D. Planned unit development standards. In all planned unit development the following standards shall apply:
- (1) The area of land to be developed shall not be less than 25 acres.
 - (2) 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.
 - (3) 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.
 - (4) At least 10% of the area of the planned unit development shall be retained in usable open space for common usage.
- E. Required data. The applicant shall furnish the Town Board with a petition for the desired zoning change and basic data, including:
- (1) A map at a scale sufficient to show the boundaries of the proposed planned unit development district, existing zoning, topography, draining and soil conditions;
 - (2) Any preliminary plans as may be required for an understanding of the proposed development;
 - (3) A copy of the deed of record documenting ownership of the subject parcel;
 - (4) If the applicant is not the owner, the applicant's name, address and interest in the property;
 - (5) If represented by others, a statement of consent allowing for the representation;
 - (6) Any additional information as may be required by the Planning Board and/or Town Board.
- F. 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 use permit as provided in this chapter under Article IV, Special Use Permits.

§ 190-54. Essential services.

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

- A. 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 a minimum of vehicular traffic to and through such streets.
- B. The location, design and operation of such facility may not adversely affect the character of the surrounding residential area.
- C. Adequate fences, barriers and other safety devices shall be provided and shall be landscaped.

§ 190-55. Mobile homes.

A. Mobile home parks.

- (1) Application for a mobile home court or park shall be subject to the following regulations:
 - (a) Such facility shall be situated on a minimum parcel of five acres of land.
 - (b) Each mobile home shall be situated on a space of not less than 5,000 square feet in area and at least 50 feet in width and 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 500 feet to an RH District and 200 feet from any permanent residential building located outside the mobile home court.
- (2) Site plan. A site plan at an appropriate scale as determined by the Planning Board shall be filed with the application for a permit and shall show compliance with the following:
 - (a) Each mobile home shall abut on a roadway of not less than 30 feet in width with a pavement of not less than 18 feet. Each mobile home shall have a minimum setback of 30 feet from any roadway center line.
 - (b) All access pavements and parking berths shall be provided with a dust-proof surface.
 - (c) Each mobile home space or berth shall have a potable water connection, a sewage disposal connection, and an electrical power source.

- (d) All sewage shall be discharged into a public or private sewer system and/or disposal system approved by the Albany County Health Department.
- (e) Roadway or area lighting shall be reflected away from adjoining property, streets and highways.
- (3) Required permit. 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.
- (4) Existing mobile home. A mobile home dwelling within a mobile home park in lawful existence prior to the adoption or subsequent amendment of this chapter 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.
- (5) Termination. Section 190-30D and E governing termination, damage or destruction of a nonconforming use shall apply to mobile home dwellings.

B. Mobile homes outside of mobile home parks.

- (1) The installation of a mobile home outside a specified mobile home park is prohibited.
- (2) A mobile home dwelling located outside of a mobile home park in lawful existence prior to the adoption or subsequent amendment of this chapter 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.
- (3) Mobile home expansion.
 - (a) 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 area variance from the ZBA.
 - (b) Authorization shall be solicited from the Planning Board 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 owner's name and address. If the applicant is not the owner, the applicant's name, address

and interest in the property; the subject property address; the current zoning district classification and present use of the subject property.

- [2] If represented by others, a statement of consent allowing for the representation.
 - [3] A copy of the deed of record documenting ownership of the subject property.
 - [4] A written general description of the proposed project.
 - [5] A minimum of 12 copies of a site plan, at a scale of one inch to 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, stormwater facilities, typical building elevations, site contours and general building layout or floor plan and any other planned improvements.
- (4) Termination. Section 190-30D and E governing termination, damage or destruction of a nonconforming use shall apply to mobile home dwellings.

§ 190-56. 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 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 setback. Swimming pools shall not be constructed nearer than 15 feet to the rear property line, nor less than 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. Any electrical installations in connection with or in the vicinity of the pool shall be accomplished by a 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 homeowner.
- D. The pool shall be constructed and operated consistent with the New York State Code governing swimming pools and methods of handling objectionable wastes. Any provisions in the New York State Code providing for more restrictive requirements for swimming pools will take precedence over these regulations.

§ 190-57. Commercial towers.

- A. Where radio, microwave, electric and transmission towers or satellite dishes are permitted as a special use in zones, such towers or dishes shall first consider the following options.
- (1) Options:
 - (a) Shared use of existing towers.
 - (b) Shared use of municipal facilities.
 - (c) Shared use of existing structures.
- B. Reasons why shared use cannot be utilized as set forth above shall be documented in writing and submitted with the application for Planning Board determination.

ARTICLE VI
Cluster Development⁸

§ 190-58. Purpose.

- A. 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 thereby protecting and preserving the natural and scenic qualities of such areas.
- B. Specifically, the purposes of cluster development within the Town of New Scotland are to:
- (1) Promote the most appropriate use of land;
 - (2) Facilitate the adequate and economical provision of streets and utilities;
 - (3) Result in improved living and working environments;
 - (4) Preserve open space and the natural and scenic qualities of open lands including environmentally sensitive features of development sites;
 - (5) Preserve significant tracts of forested lands;
 - (6) Preserve active agricultural lands;
 - (7) Protect floodplains, wetlands, lakes, ponds, streams, and other natural features;
 - (8) Promote development in harmony with the goals and objectives of the New Scotland Comprehensive Land Use Plan.

8. Editor's Note: See also § 190-22, Cluster development, of this chapter, and Article VI, Cluster Development, of Ch. 164, Subdivision of Land.

§ 190-59. Authority.

Authorization is hereby granted to the Town of New Scotland Planning Board pursuant to § 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 chapter and Chapter 164, Subdivision of Land, of the Code of the Town of New Scotland. Any applicant may, on the applicant's own initiative, submit a proposed cluster development for consideration by the Planning Board.

§ 190-60. 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 this Chapter 190, Zoning, 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 units 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 shall 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, at 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-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 § 190-62 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.

§ 190-61. 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 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 Chapter 164, Subdivision of Land, of the Code of the Town of New Scotland.
- 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 USGS topographic map, which indicates NYS 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 § 190-60.
- 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 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.

§ 190-62. 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. Resubdivision 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 nonsubdivision 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.

§ 190-63. 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:

- A. 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.
- B. 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.

- C. 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.
- D. Once established, all responsibility for operation and maintenance of the common land facilities shall lie with the homeowners' association.
- E. 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. Resubdivision of such areas is prohibited. The dedication shall:
 - (1) Save the title to the common property to the homeowners' association free of any cloud implying public dedication;
 - (2) Commit the developer to convey the areas to the homeowners' association at the approved time to be determined by the Planning Board;
 - (3) Grant easements of enjoyment over the area to the lot owner;
 - (4) Give the homeowners' association the right to borrow for improvements upon the security of the common areas; and
 - (5) Give the homeowners' association the right to suspend membership rights for nonpayment of assessment or infraction of published rules.
- F. 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.
- G. 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.
- H. 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

§ 190-64. Purpose.

It is the purpose of this article to provide for the necessary construction of dwellings in the RF and R2 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.

§ 190-65. Limitations on division of property.

- A. Application. The provisions of this article shall apply to all parcels of land located in the Residential Forestry (RF) and the Residential Conservation (R2) Zones as of the effective date of this chapter.
- 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 chapter. 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:
 - (1) In the RF 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.
 - (2) In the R2 Zone: One, one-acre single family building lot for each 11 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
Planning Board Waivers and Modifications

§ 190-66. 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, or where the specific issues of health, safety, or welfare of the neighborhood outweigh the strict application of this chapter, and such strict application of this chapter would result in extreme practical difficulties upon the

owner(s) of such property(ies); 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.

§ 190-67. Modifications.

The standards and requirements of this chapter may be modified by the Planning Board in the case of subdivisions, complete communities, 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 cluster development as set forth in this chapter.

§ 190-68. Application procedure.

- A. Applications for waivers and modifications shall be submitted in writing by the applicant at the time the application 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 applicant, not less than 14 calendar days in advance of a regularly scheduled Planning Board meeting at which reconsideration is desired.

ARTICLE IX Zoning Board of Appeals

§ 190-69. 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.

§ 190-70. Membership.

- A. The ZBA shall consist of five 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 consecutive meetings.

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

§ 190-71. Organization and procedure.

A. Meetings.

- (1) The ZBA shall adopt and publicize a meeting schedule.
- (2) All hearings of the ZBA shall be public.
- (3) 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.
- (4) The Chair may administer oaths and compel the attendance of witnesses.

B. Voting.

- (1) A quorum entitling the ZBA to take action shall be a majority of the entire membership of the ZBA.
- (2) Each member present at a meeting shall be entitled to one vote on each matter before the ZBA.
- (3) ZBA action may be taken only upon the concurring vote of a majority of the entire membership of the ZBA.
- (4) 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.
- (5) The Town Board may appoint alternate members to the Zoning Board of Appeals which will allow for the Chairperson of the ZBA to designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on a matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board meeting at which the substitution is made.

§ 190-72. Powers and duties.

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

- A. 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 chapter.

- B. Grant variances. To approve, approve with conditions, or disapprove appeals for variances from the strict enforcement of only the provisions of this chapter which relate to the use, space, area and size standards of the district regulations and performance standards.
- C. Permit building in bed of mapped streets. The ZBA, after due notice and hearings required under § 280 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.
- D. Interpret district boundaries and provisions of this chapter. Upon appeal from a decision by the Inspector to decide any question involving the interpretation of any provision of this chapter, 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.
- E. 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 12 months and shall not be renewable more than once, and then for a period of not more than 12 months.

§ 190-73. Initiation of proceedings.

- A. Procedure for appellant.
 - (1) An appeal to the ZBA pertaining to a ruling of any Town officer administering any portion of this chapter 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.
 - (2) A notice of appeal shall be filed by the appellant within 60 days of notification of the decision to which an appeal applies.
 - (3) 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:

- (a) The name, address and phone number of the applicant or appellant.
- (b) The name and address of the owner of the lot to be affected by such proposed change or appeals.
- (c) 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.
- (d) Applicant's interest in the property.
- (e) Sixteen complete copies of any application form and information prescribed by the ZBA.
- (f) Additional information.

[1] If seeking an interpretation:

- [a] A written description of the specific provision of the law in question and the interpretation claimed.
- [b] A sketch plan of the real property to be affected, indicating the location and size of improvements proposed to be completed.

[2] If seeking a variance:

- [a] A site plan as required by § 190-52E(4), 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.
- [b] Name and mailing addresses of the owners of all property within 500 feet of the subject property.

B. Procedure for the Inspector.

- (1) 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.
- (2) 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.

C. 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.

D. Referral to the Planning Board.

- (1) Upon receipt of any application to the ZBA, the Inspector shall transmit a copy of said application to the Planning Board and shall request that the Planning Board submit an advisory opinion to the ZBA within 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.
- (2) 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.

E. Public hearings and notice. The ZBA shall fix a reasonable time for, and fix a date in the reasonable future for, the required public hearing on an application. Public notice shall be given in compliance with § 267-a of New York State Town Law by publishing a notice of such hearing in the official paper at least five days prior to the date thereof, and, at least five days prior to the date of the hearing, mailing notices of the hearing to the following officials, persons and owners of property:

- (1) 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 500 feet of the property affected by such appeal;
- (2) In case of an appeal for a variance: all owners of the property within 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.

F. Adjournment of hearing. Upon the day for hearing any application or appeal, the ZBA may adjourn the hearing for a period not to exceed 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.

§ 190-74. Decision.

- A. The ZBA shall decide each appeal within 62 days from the date of the final hearing, and notice shall be given to all parties in interest in accordance with § 267-a 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 chapter, 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.

§ 190-75. Granting appeals.

When benefit to the applicant outweighs health, safety and welfare issues or when unnecessary hardships are encountered by the applicant in carrying out the strict letter of this chapter, 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 chapter and secures public safety, yet provides relief from or unnecessary hardship caused by this chapter. 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 its opinion, most closely effect the intent of this chapter.

§ 190-76. 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 chapter 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.
- (1) 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.
 - (2) 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:
 - (a) 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;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the district or neighborhood; and

- (e) 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.
- (3) 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.

- (1) 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.
- (2) 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:
 - (a) Under applicable zoning regulations the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (c) That the requested use variance, if granted, will not alter the essential character of the district or neighborhood; and
 - (d) That the alleged hardship has not been self-created.
- (3) 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.

§ 190-77. Imposition of conditions.

- A. 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 this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the district, neighborhood or community.
- B. Such conditions may include, but are not limited to, specifications for the following:
 - (1) Vegetation, buffering, and screening;
 - (2) Increased setbacks, yards, and access restrictions;

- (3) Hours of use and operation controls;
- (4) Location and design of signs, parking, and lighting;
- (5) Conservation easements and other deed restrictions;
- (6) Professional maintenance and inspection of facilities or improvements necessary to ensure adequate maintenance and inspection;
- (7) Any other standard or specification contained in this chapter.

§ 190-78. 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 year from the date of authorization.

§ 190-79. 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 chapter, the ZBA denies the same, 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 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

§ 190-80. 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 chapter.

§ 190-81. Duties of administrative official.

- A. 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.
- B. 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 chapter. 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 60 days after submission. Once approved by the Town Board and filed with the Town Clerk, rules, regulations and forms shall have the same force and effect as the provisions of this chapter and be subject to the same penalties for violation thereof.

- C. 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 chapter.
- D. Receipt of applications.
 - (1) The Inspector shall receive applications for the erection and alteration of buildings and structures or parts thereof.
 - (2) 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 on the owner's behalf and the Inspector is permitted to enter upon such premises without a search warrant.
- E. 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.
- F. 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 § 190-86.
- G. 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.
- H. 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 this chapter and the laws of the Town of New Scotland, provisions of the Building Code of New York State and any other applicable laws or regulations.
- I. 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 chapter and Chapter 164, Subdivision of Land, or as assigned by the Town Board.

§ 190-82. 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 nevertheless be done in conformance with the Building Code of New York State and any other applicable laws and regulations.

A. Application.

- (1) 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.
- (2) 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:
 - (a) 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.
 - (b) A description of the land on which the proposed work is to be done.
 - (c) A statement of the use or occupancy of all parts of the land and the proposed building or structure.
 - (d) The valuation of the proposed work and of the existing buildings and structures.
 - (e) The signature of the applicant or agent.
 - (f) 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.
 - (g) A brief description of the nature of the work.
 - (h) 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, rules and regulations.

- B. 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 chapter, and that all other reviews and actions, if any, called for in this chapter have been complied with, and all necessary approvals, permits and variances required have been secured. All building permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected.
- C. Duration of permits.
- (1) A building permit issued pursuant to this section shall expire one 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 successive twelve-month periods provided that:
 - (a) The relevant information in the application is up to date; and
 - (b) The renewal fee, as established by the Town Board, is paid; and
 - (c) Should the permit have been revoked, the necessary surety, if required, has been provided to the Town of New Scotland.
 - (2) Thirty-six 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 require immediate removal of the construction, associated with the structure for which the permit was issued, completed prior to permit expiration.
- D. 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, or where the application was reviewed and denied by the Planning Board, 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.
- E. 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, zoning laws, code rules or regulations, or not in conformity with the provisions of an application, or is being conducted 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 the permission for construction of such building and structure.

F. Revocation of permits.

- (1) The Inspector may revoke a building permit in the following instances:
 - (a) 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.
 - (b) Where the building permit was issued in error and should not have been issued in accordance with applicable law.
 - (c) Where the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application.
 - (d) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Inspector.
 - (e) Where the building permit renewal was required to be reviewed by the Planning Board, or other authority, and was denied by the same.
- (2) It shall be the duty of the person holding the building permit to surrender it and all copies thereof to the Inspector.
- (3) Building permit reissuance. After the revocation of a building permit, for any reason, and prior to the issuance of a new building permit, the cause for revocation must be remedied to the Building Inspector's satisfaction that all laws and codes are being complied with. Also any restrictions or requirements imposed upon the project by any authority reviewing the application must be complied with.

G. Appeal from denial, stop work or revocation. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, interpretation or determination as in its opinion ought to have been made by the administrative official(s) charged with the enforcement of such local law or ordinance and to that end shall have all the powers of the administrative official(s) from who the appeal is taken. Such appeal shall be filed with the Zoning Board of Appeals in accordance with § 190-73 of this chapter.

H. Construction inspections.

- (1) With each building permit, the Inspector shall issue a schedule of required construction inspections.
- (2) 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 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.

- (3) The Inspector is authorized to make the following additional inspections:
 - (a) 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.
 - (b) Inspections where a certificate of occupancy, use or compliance or certificate of compliance is required, prior to its issuance.
 - (c) Fire safety inspections of all multiple dwellings and all nonresidential occupancies at least once per thirty-six-month period.
 - (d) Inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with the Building Code of New York State, this chapter or any other applicable federal, state, county or municipal law.
 - (e) Inspections deemed appropriate from time to time during and upon completion of work for which a building permit has been issued.
 - (f) 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.
 - (g) Inspections as required for the issuance and administration of a temporary certificate of occupancy, use or compliance.
- (4) 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.
- (5) 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.

§ 190-83. Procedure for issuance of certificate of occupancy, use or compliance.

A. Applicability.

- (1) 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.

- (2) No building, nor part thereof, hereafter erected, enlarged, extended or altered by construction which required the issuance of a building permit shall be occupied or used for the purposes described in such permit until a certificate of occupancy, use or compliance has been issued for the purposes the permit was applied for.
 - (3) 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.
 - (4) No special use permit requiring a building permit shall be considered in effect until a certificate of occupancy, use or compliance has been issued.
- B. Application for a certificate of occupancy, use or compliance. 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.
- C. Action by the Inspector. When, after final inspection, it is found that the construction work has been completed in accordance with the applicable 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.
- D. 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 months from its date of issuance. For good cause, the Inspector may allow a maximum of two extensions for periods not exceeding three months each.
- E. 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 chapter is made effective, certifying the extent and kind of use and whether any such existing use conforms to the provisions of this chapter. A fee in accordance with the Town Fee Schedule will be applicable.

§ 190-84. Violations enumerated.

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 chapter, Chapter 164, Subdivision of Land, 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.

§ 190-85. Complaint of violations.

Whenever a violation of this chapter 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 investigate the complaint in a timely fashion, reporting thereon to the Town Board, and/or Planning Board.

§ 190-86. 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 chapter, Chapter 164, Subdivision of Land, or of any law or regulation made under authority conferred hereby, the Town Board, or, with its approval, the 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.

- 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 chapter or of Chapter 164, Subdivision of Land, 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 chapter or Chapter 164, Subdivision of Land, and which shall direct that the violation be removed within 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 chapter and all other notices directing anything to be done required by this chapter 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 chapter to restrain or remove any violation or to enforce compliance with any provision or requirement of this chapter, 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 chapter, 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 \$350 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700, or imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 day, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations shall be deemed misdemeanors and for such purposes only all provisions of law relating to misdemeanors shall apply to such violations. 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

§ 190-87. Purpose.

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

§ 190-88. Authority.

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

§ 190-89. Membership.

- A. The Town of New Scotland Planning Board shall consist of seven members. One 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 consecutive meetings.
- C. Upon resignation or disability of the Chair, involving a long-term absence to exceed three consecutive meetings, the Town Board shall appoint an Acting Chair to preside over the Planning Board.

§ 190-90. 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 other members, provided that 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 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 his/her discretion waive this requirement.

- F. Seven 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.

§ 190-91. 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 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.

§ 190-92. Powers and duties.

- A. The Planning board shall perform those duties prescribed by this chapter 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 chapter, 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 chapter 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 chapter, including recommendations as to the enactment of amendments, supplements or changes.

§ 190-93. 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 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

§ 190-94. Town Board's authority to 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 chapter, after public notice and hearing.

§ 190-95. 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 a report thereon before the public hearing hereinafter provided for. If the Planning Board shall fail to file a report within 60 days, it shall be conclusively presumed that the Planning Board has approved the proposed amendment, supplement or change.

§ 190-96. Public notice and hearing.

- A. 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:
- (1) Public notice. By publishing a notice at least 10 days in advance of such hearing in at least one 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.
 - (2) Personal notice. (See General Municipal Law §§ 239-l and 239-m.)
 - (3) Associations. 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.
 - (4) Property owners. 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 10 days prior to the date of such public hearing.
- B. 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
Terminology

§ 190-97. Word usage.

For the purposes of this chapter, 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 word "structure."

§ 190-98. Terms defined elsewhere.

When terms are not defined in this chapter and are defined in other codes, laws or ordinances of the Town of New Scotland, such terms shall have the meanings ascribed to them as in those codes, laws or ordinances. When terms are not described through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

§ 190-99. Definitions.

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

ACCESSORY STRUCTURE — A structure, the use of which is incidental to that of the main building, and which is not attached thereto, or is located on the same premises. Examples of accessory structures include storage sheds, private garages and screened trash disposal containment areas. Such structures shall not be located closer than 10 feet to the principal structure.

ACCESSORY USE — A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building.

AGENT OF OWNER (applicant) — Any person who can show written proof that he/she is acting for the property owner.

AGRIBUSINESS — Activities related to agricultural products and by-products, other than those described in the definition of "farming, agriculture or nursery" in this section, and:

- A. Is conducted by a party on a parcel where the "raw product" is not produced or raised, or;
- B. Where less than 50% of the product being produced or processed, for sale or distribution, is obtained from lands owned or controlled by said party, or;
- C. Is being conducted on land not owned or controlled by said party.

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.

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. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

AMATEUR RADIO TOWERS — Radio towers owned and operated by an amateur radio operator, licensed by the Federal Communications Commission (FCC) and used solely for noncommercial purposes, without any financial compensation. The height of an amateur radio tower including antennas shall be governed by the provisions regulating accessory uses and structures of this chapter.

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.

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.

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.

AUTO WRECKING — The dismantling, or disassembling, of 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.

BED-AND-BREAKFAST — Owner-occupied residence resulting from a conversion of a one-family dwelling, used for providing overnight accommodations and a morning meal to not

more than 10 transient lodgers, and containing at least three but not more than five bedrooms for such lodgers.

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.

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.

BUILDING CODE — The current Building Code of the State of New York.

BUILDING, FRONT LINE OF — The line of that face of a building nearest the front line of a lot. This face shall include porches, carports, balconies and platforms, whether enclosed or unenclosed.

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.

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.

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 semienclosed structures. Limited lumber milling may be associated with such businesses under special use permit conditions.

CAMP — Any structure used on a temporary basis, such as a tent or a cabin used on an outing or on a vacation.

CERTIFICATE OF OCCUPANCY, USE OR COMPLIANCE — A document, signed by the Inspector, stating that a structure is in compliance with all provisions of this chapter, and other applicable laws, and/or a use is in compliance with this chapter and other applicable laws, and/or any proposed action complies with conditions for approval imposed by any board of the Town of New Scotland.

CHURCH — A structure, used by any denomination, whose primary purpose is for worship.

CLINICS — An institution providing health care services on an outpatient basis for medical care of the sick or injured including such related facilities as laboratories, central service, training and staff offices.

CLUB — A group of persons organized for a social, literary, athletic, political or some other purpose, and the building or room occupying such a group.

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 chapter.

CODE ENFORCEMENT OFFICIAL — The officer charged with enforcement of building, zoning or fire codes.

COMMUNITY CENTER — A building in which members of a community may gather for social, educational or cultural activities.

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.

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.

DAY CARE — Daytime care or instruction of not more than six children away from their own homes for more than three but less than 24 hours per day by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

DAY-CARE CENTER — A center for more than six children, ages six weeks to 12 years of age (children may be more than 12 years of age if incapable of caring for themselves), for more than three hours a day and which has a license to operate as such as defined in § 390 of the Social Services Law.

DISTRIBUTION — The marketing, transporting, or delivery of merchandise, or the delivery or giving out of an item or items to the intended recipient.

DOUBLE-FRONTAGE LOT — A lot with rear and front lot lines which abut existing or proposed streets or right-of-ways.

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.

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.

DWELLING UNIT — One 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 family for living purposes.

- A. **DWELLING, SINGLE-FAMILY** — A structure designated for or occupied exclusively by one family and containing not more than one 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 dwelling units, such building being designed for residential use and occupancy by two families living independently of each other, each unit being separated by vertical walls and/or horizontal floors.
- C. DWELLING, MULTIPLE — A building with three 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, and buildings with one 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.

EDUCATIONAL USES — Facilities and accessory grounds and structures that provide a curriculum of nursery, elementary, secondary academic and/or postsecondary 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.

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.

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.

FACILITY — Something designed, built, installed, etc., to serve a specific function affording a convenience or service.

FAMILY — A household constituting a single housekeeping unit occupied by one or more persons.

FARMING ACTIVITY, PERSONAL — A parcel of land less than five acres used for farming, agriculture and/or nursery activities. The display and sale of products grown on site for retail purposes and the raising of livestock, poultry or fowl (except hogs and pigs) shall be allowed only by special use permit. The provisions of this definition shall not apply to family garden produce grown on site.

FARMING, AGRICULTURE or NURSERY — A parcel of land of at least five 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 50% or more of the products sold by said party are produced by said party, and the raising of stock and poultry except hogs and pigs.

FLOOR AREA — The floor area within surrounding walls of a building, or portion thereof.

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 lot to the total lot area.

FOREST 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.

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

GARAGE, PUBLIC — A building other than a private garage, one 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.

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.

HABITABLE SPACE — Space occupied by one or more persons for living, sleeping, eating or cooking.

HALL — A large room or building used for gatherings; auditoriums, convention halls, social halls, etc.

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.

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 25% of the habitable space or 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.

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.

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.

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 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.

HOUSEHOLD PET — Animal 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.

INDUSTRIAL PARK — An area of land developed in an orderly planned way with transportation, utilities, etc., and leased or sold to industrial firms.

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.

JUNK — Manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but could be subject to being dismantled, including, but not limited to, used paper, scrap metals and their alloys, rags, used cloth, used rubber, used rope, used bottles, batteries, old or used machinery, used tools, used boxes or crates, used pipe or pipe fittings, used tires, appliances, fixtures, utensils, etc., and also including any waste, junked, scrapped, ruined, dismantled or wrecked vehicle or construction parts or debris.

JUNK VEHICLE — Any vehicle which for any reason is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power or is incapable without repair of being drawn or towed in the manner originally intended, if it is a vehicle originally designed to be towed or drawn from behind an internally powered vehicle, and as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions such as, but not limited to, the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows; absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof, tailgate); physical damage (such as dents, cracks, scrapes, holes); absence of interior components (such as seats, dashboard, interior door moldings, etc.).

KENNEL — An establishment to house dogs, cats or other household pets for commercial purposes, other than litters under six months of age. Where grooming, breeding, training or selling of dogs, cats, or other household pets is conducted as a commercial activity.

LARGE SCALE BUSINESS DEVELOPMENT — A large scale business or industrial development is a tract of land of not less than five acres for nonresidential development, and which is planned for development as units under single ownership or control and which includes two or more nonresidential principal buildings.

LODGE — The meeting place of a branch of a secret society.

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 chapter, and having not less than fifty-foot frontage on a public highway, road or street.

- A. **LOT, CORNER** — A lot butting two 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 135°. 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.
- H. **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 chapter. These lots are relieved of the required 50 feet of frontage on a public street or highway. A fifty-foot

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.

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.

MOBILE HOME PARK or 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.

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 cabin or roadside hotel.

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.

NONCONFORMING LOT — A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this chapter but that fails in terms of total area or dimensions to conform to the present requirements of the zoning district.

NONCONFORMING 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 this chapter but that fails to conform to the present requirements of the zoning district.

NONCONFORMING USE — A use or activity that was lawful prior the adoption, revision or amendment of this chapter but that fails to conform to the present use requirements of the zoning district in which it is located.

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-hour basis, nursing care and related medical services. This definition shall include skilled nursing facilities, intermediate care facilities and nursing facilities.

OFFICE BUILDING — A building that has been planned, developed and operated as a facility to accommodate one or more separate offices as its primary use, where other uses are secondary or accessory.

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.

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.

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.

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.

PERSONAL SERVICE OUTLET — An outlet where personal services are offered for profit, such as barbershops, shoeshine shops and beauty parlors.

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.

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.

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.

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.

PRIVATE — Belonging to some particular person or persons; private property not open or accessible to the general public.

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.

PUBLIC — Open to all people.

PUBLIC SERVICE — Business of supplying an essential service.

PUBLIC UTILITY — A business performing an essential public service.

QUALIFIED GEOLOGIST/HYDROGEOLOGIST — A qualified geologist/hydrogeologist (including geologists, hydrologists, geohydrologists or soil scientists) shall be defined as:

- A. Graduated from an accredited college with a degree in hydrogeology, geohydrology or soil science; or
- B. Graduated from an accredited college with a degree in geology including and/or supplemented by a minimum of three credit hours in hydrogeology or geohydrology; or
- C. Graduated from an accredited college with a degree in one of the natural physical sciences including and/or supplemented by 30 credit hours in geology of which three credit hours must be in hydrology and/or geohydrology; or
- D. Graduated from an accredited college with a degree in one of the natural physical sciences including and/or supplemented by 30 credit hours in pedology or soil work and a minimum of six credit hours in geology (course work in paleontology or mining will not be considered acceptable); or
- E. Four years of appropriate professional experience.

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

RECREATION — A pastime, diversion, exercise, or other resource affording relaxation and enjoyment.

RECREATION FACILITIES —

- 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, NONPROFIT** — Clubs or recreation facilities operated by a nonprofit organization and open only to bona fide members of such nonprofit organization.
- C. **RECREATION, PUBLIC** — Recreation facilities operated as a nonprofit enterprise by the Town of New Scotland, and any other governmental entity, or any nonprofit organization, and open to the general public.

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.

REMOVAL OF FILL, GRAVEL OR LOAM — The extraction or movement of a portion of the earth's crust consisting of disintegrated rock and humus which involves an amount equal to or greater than 100 yards of material within any 12 successive months, whether for profit or not.

REPAIR — The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. A repair may or may not require a building permit depending on the scope of the repair.

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.

RESTAURANT — Any establishment which serves prepared meals for consumption on the premises or for takeout. Does not include drive-in restaurants.

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, bookstores and other retail outlets.

ROOMING HOUSE — A building containing a single dwelling unit and rooms for the rooming and/or boarding of at least two persons, but not more than five persons, by prearrangement for definite periods of not less than one week.

RUBBISH — Combustible and noncombustible waste material, except garbage. The term shall include the residue from the burning of wood, coal, coke and other combustible materials; paper, rags, cartons, boxes, wood, excelsior, rubber, yard trimmings and waste, tree stumps, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials. This term shall also include discarded, abandoned or stored refrigerators.

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.

SEMIPUBLIC — Partly or to some degree public.

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.")

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.

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.

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.

SOCIAL HALL — Pertaining to, devoted to, or characterized by friendly companionship or recreations. A social club.

SOIL MINING — Any excavating or breaking of the surface soil which involves an amount equal to or greater than 100 yards of material movement within any 12 successive months, including, but not limited to, quarrying, the removal of gravel, and any subsoil or topsoil removal, whether for profit or not.

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.

STABLE, PRIVATE — An accessory building and arena in which horses are kept, exercised or trained for private use and not for remuneration, hire, or sale. For lots under five acres, the maximum number of horses that can be kept for private use is three. For lots over (five) acres, one additional horse may be kept for each additional two acres of land.

STABLE, PUBLIC — The building and arena in which horses are kept, exercised or trained for commercial use including boarding, hire and sale. A maximum animal density of one per two acres of land.

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.

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) — 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) — Streets which are used primarily for access to abutting residential, agricultural and forest management properties. Local streets include culs-de-sac, marginal access streets, and streets used for circulation within residential developments which do not provide for through traffic circulation.
- D. **MARGINAL ACCESS STREETS** — 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.

STREET CENTER LINE — The line corresponding to the midpoint of the surfaced portion of any street.

STREET, PUBLIC — A street dedicated to public use.

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, carports and retaining walls over five feet in cumulative height.

SUBDIVISION — The division of any parcel of land into two or more lots or the changing of any boundary line of existing lands.

SUBSTANTIAL IMPROVEMENT OR REHABILITATION — Any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds 50% 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.

SUMMER CAMP — A camp providing facilities for sleeping and eating, and is usually for learning or participation in sports, outdoor games, handicrafts, etc. Such a camp is usually attended by children for several weeks during the summer.

SUPERMARKET — A retail business contained on one floor devoted to sale of food and related household items.

SWIMMING POOL — Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground pools, hot tubs, spas and fixed-in-place wading pools.

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.

THEATER — A building, part of a building or outdoor area for housing dramatic presentations, stage entertainment or motion-picture shows.

TOWER — A structure for supporting any device for the commercial transmission or reception of various types of signals for purpose of communication through mediums, including, but not limited to antennas, television and radio devices, satellite dishes, microwave dishes and devices that send or receive electromagnetic waves or those types of signals.

TRUCKING TERMINAL — An assemblage area for trucks with or without facilities for maintenance or repair, or with or without structures to support the transfer (loading and unloading) of materials or goods for delivery to other sites or for customer pickup.

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.

VARIANCE, AREA — Permission by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter.

VARIANCE, USE — Permission by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this chapter.

VETERINARY FACILITY or ANIMAL HOSPITAL — A structure for the health care and treatment of animals, not including kennels.

WAREHOUSE — A building or part of one for the storage of goods, merchandise, etc.

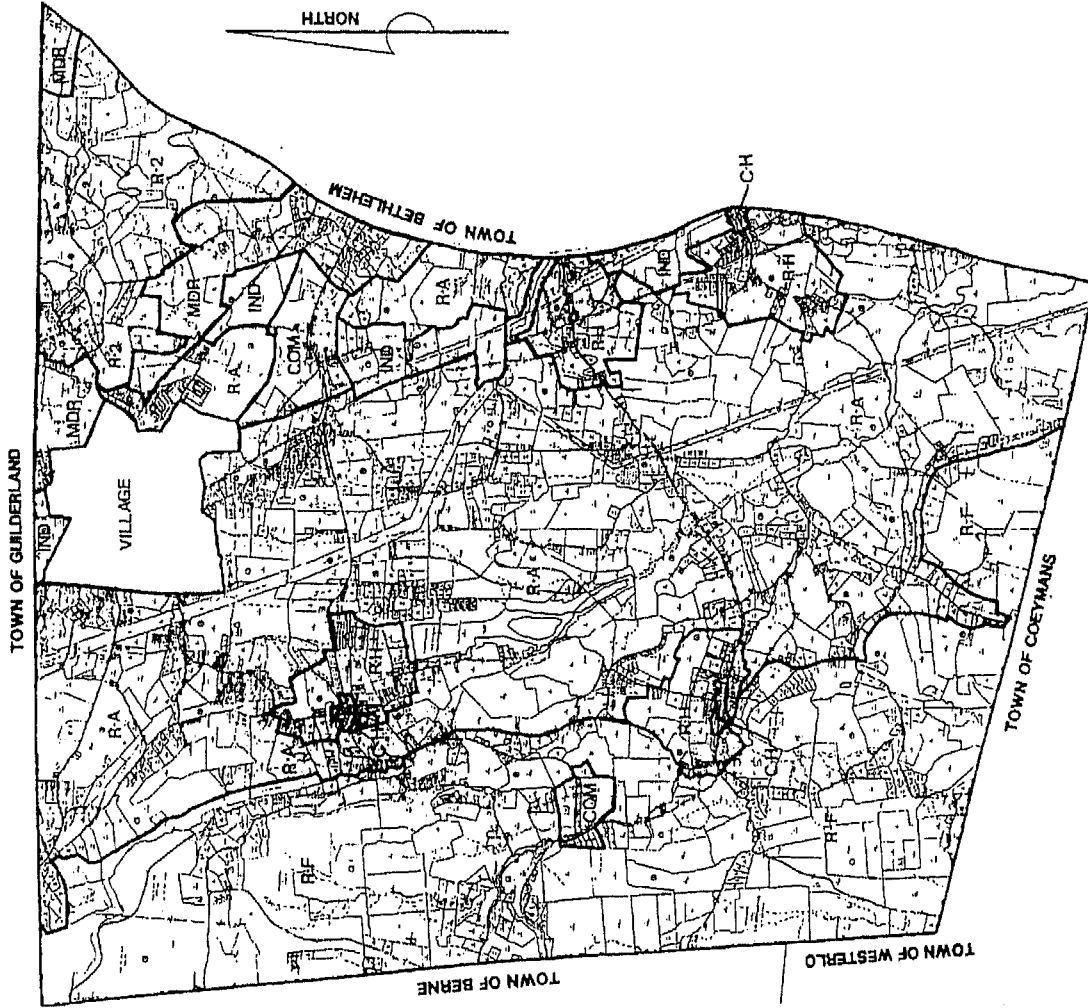
ARTICLE XIV

Fees

§ 190-100. Fee requirements.

Fees, as established by the Town Board by resolution, may be charged for processing of applications and permits issued under this chapter.

ZONING



TOWN OF NEW SCOTLAND ZONING MAP

ADOPTED JULY 10, 1995

DISTRICTS

RESIDENTIAL FORESTRY	R-F
RESIDENTIAL 2 ACRE	R-2
RESIDENTIAL HAMLET	R-H
COMMERCIAL HAMLET	C-H
COMMERCIAL	COM
INDUSTRIAL	IND
MEDIUM DENSITY RESIDENTIAL	MDR
RESIDENTIAL- AGRICULTURAL	R-A

APPROXIMATE SCALE: 1 IN = 2700 FT

ZONING DISTRICT BOUNDARIES GENERALLY FOLLOW
ALONG THE REAR OF PROPERTIES AND
OCCASIONALLY FOLLOW A DIRECTION THROUGH PARCELS
FROM ACQUIRING PROPERTY OWNER TO ADJOINING PROPERTY OWN
TOWN/DISTRICT BOUNDARIES THAT FOLLOW ALONG PUBLIC ROAD
ARE INTENDED TO FOLLOW THE RIGHT OF WAY LINE OF
SAID PUBLIC ROAD AND NOT THE CENTERLINE OF PAVEMENT

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of certain legislation (regarding the following subjects only: Dumps and Dumping; Highway Specifications; Junk and Junk Vehicles; Sewers; Subdivision of Land; Water Use; and Zoning) of the Town of New Scotland adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation of the subjects listed above which was included in the original publication of the Code was L.L. No. 8-2001, adopted 7-11-2001.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
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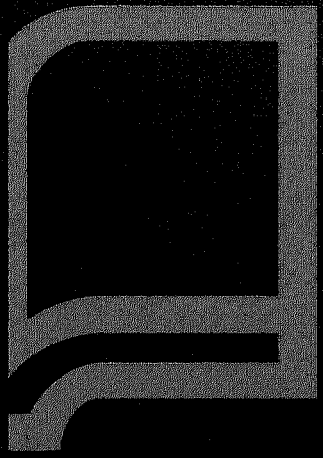
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