

TOWN OF SCHAGHTICOKE

ZONING LAW

Updated June 10, 2025

**Adopted
June 30, 2005**

and

Modified by Local Laws:

- #2 of 2006 – Rezoning of 61.-1-14.112
- #2 of 2007 – Erosion, Sediment, & Storm Water Control
- #3 of 2009 – Rezoning of 32.-3-16.111
- #3 of 2010 – Rezoning of 61.-1-14.113
- #1 of 2012 – Review of Minor Projects
- #3 of 2012 – Rezoning of 30.-3-5
- #2 of 2014 – Zoning Law Changes
- #3 of 2016 – Rezoning of 60.-1-13.111
- #1 of 2017 – Solar Siting
- #2 of 2017 – Rezoning of 31.-1-5.212
- #3 of 2017 – Rezoning of a portion of 32.-3-29
- #4 of 2017 – Residential Development in HC Districts
- #1 of 2020 – Rezoning of 41.-1-62 and 41.-1-62.2
- #3 of 2020 – Rezoning of 71.-2-4.13
- #1 of 2021 – Rezoning of 51.2-1-18.1 and 51.2.1.19
- #1 of 2022 – Electronic Message Boards
- #1 of 2023 – Rezoning 71.09-1-11
- #2 of 2023 – Rezoning of multiple parcels in Speigletown
- #3 of 2023 - Penalties

Modifications made by Local Law since the enactment of this law have been inserted into this copy (through the end of 2023), so that this copy a complete, current document. Language which has been deleted is shown in ~~strike through text~~, and modified or added language is shown in underlined text. Where entire paragraphs have been removed and replaced with largely identical text, only the actual changes are underlined.

TABLE OF CONTENTS

Town of Schaghticoke, New York – ZONING LAW

SECTION I	TITLE, SCOPE, AND PURPOSES	
	A. TITLE	6
	B. SCOPE	6
	C. ENACTING CLAUSE AND PURPOSES	6
	D. MANDATORY REVIEW	7
SECTION II	ESTABLISHMENT OF DISTRICTS	
	A. ZONING DISTRICTS	8
	B. STATEMENT OF PURPOSE	9
	C. ZONING MAP	10
	D. INTERPRETATION OF DISTRICT BOUNDARIES	10
	E. DELINEATION OF OVERLAY DISTRICTS	11
	F. CLASSIFICATION OF ANNEXED LANDS	11
	G. APPLICATION OF DISTRICT REGULATIONS	11
SECTION III	USE REGULATIONS	
	A. SCHEDULE OF USE REGULATIONS	13
SECTION IV	AREA AND BULK REGULATIONS	
	A. SCHEDULE OF AREA AND BULK REGULATIONS	21
	B. EXISTING LOTS	21
	C. HEIGHT EXCEPTIONS	21
	D. MODIFICATIONS PERMITTED	21
	E. CORNER LOTS	22
	F. STRUCTURES IN REQUIRED YARDS	22
	G. MINIMUM LOT FRONTAGE	23
SECTION V	SUPPLEMENTARY REGULATIONS	
	A. GENERAL PERFORMANCE STANDARDS	32
	B. ACCESS, PARKING AND LOADING STANDARDS	33
	C. DRIVEWAY STANDARDS	38
	D. LIGHTING	38
	E. BUILDING LAYOUT AND DESIGN GUIDELINES	39
	F. SIGN REGULATIONS	42
	G. FENCES AND WALLS	49
	H. TOWERS AND ANTENNAE	49
	I. SANITARY DISPOSAL	50
	J. EXCAVATION AS PART OF SITE PREPARTATION	50

K.	DEVELOPMENT NEAR STREAMS AND WETLANDS	50
L.	DEVELOPMENT WITHIN FLOOD FRINGE OVERLAY (FF-O DISTRICT)	51
M.	TIMBER HARVESTING	51
N.	AGRICULTURE	52
O.	SWIMMING POOLS	53
P.	HOME OCCUPATIONS	54
Q.	OIL AND GAS EXPLORATION	54
R.	MOBILE HOME NEIGHBORHOOD	55
S.	STORAGE ON RESIDENTIAL LOTS	68
T.	REQUIRED SCREENING	68
U.	CLUSTER AND CONSERVATION DEVELOPMENT	68
V.	NON-RESIDENCE MOBILE HOME	75
W.	RESIDENTIAL MOBILE HOME	76
X.	DEVELOPMENT WITHIN GROUNDWATER CONCERN OVERLAY DISTRICT	77
Y.	DEVELOPMENT WITHIN STEEP SLOPE DISTRICT	78
Z.	DEVELOPMENT WITHIN HISTORIC DISTRICT	82

SECTION VI

SPECIAL USE PERMITS

A.	GENERAL STANDARDS	85
B.	SPECIFIC STANDARDS	86
C.	STANDARDS WITHIN THE FLOOD FRINGE OVERLAY (FF-O DISTRICT)	102
D.	APPLICATION PROCEDURE	102
E.	EFFECT OF SPECIAL USE PERMIT APPROVAL	104
F.	EXPIRATION OF SPECIAL USE PERMIT	104
G.	STATUS OF EXISTING VIOLATIONS	104
H.	REVOCATION OF SPECIAL USE PERMIT	104

SECTION VII

SITE PLAN REVIEW PROCEDURE

A.	SKETCH PLAN	105
B.	APPLICATION FOR PRELIMINARY SITE PLAN APPROVAL	105
C.	PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN	107
D.	PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN	110
E.	PROCEDURE FOR FINAL DETAILED SITE PLAN APPROVAL	110
F.	PLANNING BOARD ACTION ON FINAL DETAILED SITE PLAN	110
G.	REIMBURSABLE COSTS	111
H.	PERFORMANCE GUARANTEE	111
I.	INSPECTION OF IMPROVEMENTS	111

	J.	REQUIRED REFERRAL	111
	K.	INTEGRATION OF PROCEDURES	112
	L.	EXPIRATION OF SITE PLAN	112
SECTION VIII		APPROVAL	
		PLANNED DEVELOPMENT REVIEW AND APPROVAL PROCEDURE	
	A.	INTENT AND OBJECTIVES	112
	B.	GENERAL CRITERIA	113
	C.	REVIEW AND APPROVAL PROCEDURE	118
	D.	ESTABLISHMENT OF PLANNED DEVELOPMENT (PD)	118
	E.	SITE PLAN/PLAT APPROVAL PROCESS	122
SECTION IX		NON-CONFORMING USE, STRUCTURES AND BULK	
	A.	NON-CONFORMING USES	127
	B.	NON-COMPLYING BUILDINGS	127
	C.	TERMINATION OF CERTAIN USES	128
SECTION X		ADMINISTRATION AND ENFORCEMENT	
	A.	GENERAL	129
	B.	POWERS AND DUTIES OF THE BUILDING INSPECTOR	129
	C.	VIOLATIONS	130
	D.	PENALTIES	131
SECTION XI		ZONING BOARD OF APPEALS	
	A.	CREATION, APPOINTMENT AND ORGANIZATION	133
	B.	POWERS AND DUTIES	133
	C.	PROCEDURE	134
SECTION XII		AMENDMENTS	
	A.	REPORT OF THE PLANNING BOARD	138
	B.	TOWN BOARD PROCEDURE	139
SECTION XIII		DEFINITIONS	141

SECTION XIV

INTERPRETATION AND APPLICATION

A.	INTERPRETATION, CONFLICT WITH OTHER LAWS.	157
B.	SEPARABILITY	157
C.	PUBLICATION	157
D.	EFFECTIVE DATE	157

SECTION I.

TITLE, SCOPE AND PURPOSES

- A. TITLE. This local law shall be known and may be cited as “The Zoning Law of the Town of Schaghticoke, NY”.
- B. SCOPE. This Local Law regulates and restricts the location, construction, alteration, Occupancy, and use of buildings and structures and the use of land in the Town of Schaghticoke and for said purposes divides the Town into zoning districts.
- C. ENACTING CLAUSE AND PURPOSES. This Local Law is enacted pursuant to the Municipal Home Rule Law of the State of New York, Chapter 36-a of the Consolidated Laws, Articles 2 & 3.

The general purpose of this Local Law is to comply with the Town of Schaghticoke Comprehensive plan of land use and to set forth a plan which describes the distribution of land within the Town to assure the most efficient and beneficial uses of all such land and to encourage the balanced development for industrial, commercial, residential, agricultural, environmental and public uses. The plan is predicted on purposes; a zoning map and implementation of supportive regulations, and the following principles:

1. the facilitation of the efficient, economical and adequate provision of public utilities and services;
2. the assurance of adequate sites for residential, agricultural, industrial and commercial uses;
3. the provision of privacy for families and the maximum protection of residential areas;
4. the prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians and to provide a transportation system consistent with the residential and rural nature of the town;
5. the guarantee of the right to farm;
6. the conservation of the taxable value of land and buildings throughout the Town, while maintaining the Town’s rural, small town character and while enhancing the appearance of the Town of Schaghticoke as a whole;
7. the encouragement of flexibility in the design and development of land;
8. the protection of the environment in compliance with the Town of Schaghticoke Comprehensive Plan and objectives of applicable State and Federal regulatory programs;
9. the conservation of the natural resources of the community including but not limited to the protection of the water resources of the Township;

10. The development of land and the use thereof to enable businesses and land developers to take the greatest opportunity to properly utilize energy, including but not limited to the following:

- (a) The protection of the water resources of the Town.
- (b) The design of plans to utilize solar energy opportunities to reduce the loss of non-renewable sources of energy.

11. The development of land and the use thereof for the protection and enhancement of agricultural lands as part of any Agricultural District, as established in accordance with NYS Agriculture and Markets Law.

12. The protection of existing business and commercial properties.

D. MANDATORY REVIEW. This Local Law shall be reviewed and amended as may be necessary, at any time; HOWEVER, an annual review of this Local Law shall be undertaken and amendments made as necessary. A comprehensive review of this Local Law shall be undertaken every five years from the date of adoption.

SECTION II.

ESTABLISHMENT OF DISTRICTS

A. ZONING DISTRICTS. The Town of Schaghticoke is hereby divided into the following zoning districts:

RA Residential Agricultural District

R Residential District

R40 Residential District

HD Hamlet Districts
Speigletown
Pleasantdale
Hemstreet Park
Melrose

HC-1 Highway Commercial District 1

HC-2 Highway Commercial District 2

MD Marine District

PDD Planned Development District (created through application of Planned Development District Procedure in Section V of this Local Law)

An overlay district is also hereby created:

FF-O Flood Fringe Overlay District
GC-O Groundwater Concern Overlay District
SS-O Steep Slope Overlay District
H-O Historic Overlay District

B. STATEMENT OF PURPOSE. The following statements of purpose define the spirit and Intent of each land use district not otherwise stated in this Local Law, and are to be used as guides in the interpretation and application of these regulations:

1. RESIDENTIAL (R) DISTRICTS.

The purposes of the Residential (R) Districts are: to maintain and protect

Residential and neighborhood qualities while recognizing the importance of meeting the changing housing needs of Town residents; to provide for and encourage a mixture of housing types and opportunities; to provide for and encourage open spaces; to provide for the protection of the Town's natural resources; to encourage the maintenance of native vegetation, and planting of shade trees and gardens; to foster safe pedestrian and traffic circulation consistent with the rural character; and to recognize the existence of non-conforming uses and to maintain their operation in an unobtrusive fashion.

2. HAMLET DISTRICTS.

The purpose of the Hamlet District are to maintain and protect the varied uses and character, both residential and commercial, of those communities which have structures in close proximity to one another, have developed historically and exist for the mutual benefit of all. These areas have similar features such as, but not necessarily limited to, older housing units and community services such as post offices, churches, and small neighborhood convenient-type stores. The Hamlet Districts and their zoning requirements reflect the uniqueness of each area and are designed to promote growth and land use in hamlets that are consistent with the traditional development patterns in each.

3. COMMERCIAL DISTRICTS.

The purposes of the Commercial Districts are: to provide areas of the Town for retail and non-residential development of a variety of scales which are primarily vehicular oriented; to provide a variety of retail uses and services to meet the needs of the community; and, to add to the economic base of the community.

4. MARINE (MD) DISTRICT.

The purposes of the Marine District area: to support the historic role played by the Town's waterfront in the development of the Town; to encourage river-oriented activities consistent with sound environmental practices; and to enhance public access to the river.

5. FLOOD FRINGE OVERLAY DISTRICT.

The purpose of the Flood Fringe Overlay District is to protect the public health and safety by prohibiting development in the Overlay area unless the flood-proofing requirements of the Flood Insurance Program and the Town, and any amendments or revisions as may be adopted, are met. The use regulations and density controls of the underlying district shall apply.

6. GROUNDWATER CONCERN OVERLAY DISTRICT

The purpose of the Groundwater Concern Overlay District is to ensure that the development of certain areas of town having limited amounts of groundwater percolating into the bedrock aquifer and typically low well water yields is consistent with the capacity of water resources.

7. STEEP SLOPE OVERLAY DISTRICT

The purpose of the Steep Slope Overlay District is to promote the health, safety and general welfare of the residents of the Town and to protect water quality and environmental health of ravines and other steep slope areas within the Town.

8. HISTORIC OVERLAY DISTRICT

The purpose of the Historic Overlay District is to ensure that the historic character of the area including and adjacent to the Knickerbocker Mansion is maintained.

- C. ZONING MAP. The location and boundaries of said districts are shown on the “Zoning Map, Town of Schaghticoke”. Said map together with all explanatory matter thereon and all amendments thereto is hereby adopted and is declared to be an appurtenant part of this Local Law. Said map shall be kept up-to-date and be located in the Town Hall for the use and benefit of the public.
- D. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of the aforesaid zoning districts as shown on the zoning map, the following rules shall apply:
1. Where district boundaries are indicated as approximately following the centerlines or right-of way lines of streets, highways and railroads, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a centerline or right-of-way lines of such street, highway, railroad, public utility, or watercourse is moved a maximum distance of fifty (50) feet.
 2. Where district boundaries are indicated as approximately following the Town or Village boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
 3. Where district boundaries are so indicated that they are approximately parallel to the Town or Village boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as indicated on the zoning map or as shall be determined by use of the scale shown on the zoning map.

4. Where a district boundary line divides a single lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot may, at the owner's discretion and with the exception of the overlay districts, extend not more than thirty (30) feet into the more restricted portion, provided the lot has street or highway frontage in the less restricted district.
5. In all other cases, where dimensions are not shown on the zoning map, the location of the boundaries shown on the map shall be determined by the use of the scale appearing thereon.
6. After application of the foregoing rules, if uncertainty exists as to location of district boundaries, the Zoning Board of Appeals shall so determine at the request of the Building Inspector or the Planning Board.

E. **DELINEATION OF OVERLAY DISTRICTS.**

1. **FLOOD FRINGE OVERLAY.** The boundaries of the Flood Fringe Overlay District (FF-O) is established herein as delineated on the most current edition of the appropriate "federal Insurance Administration Flood Hazard Boundary Map" as issued for the Town of Schaghticoke by the U.S. Department of Housing and urban Development. Any revisions, amendments or successors thereto, with all explanatory matter thereon, are hereby adopted and made a part of this Local Law. The latest edition of said map shall be kept on file in the Offices of the Town Clerk and the Town Planning Board for the use and benefit of the public.
2. **STEEP SLOPE OVERLAY.** The boundary of this Overlay zone (SS-O) is established herein as delineated on the most current edition of the Town of Schaghticoke Zoning Map and shall include all lands having a slope in excess of 15%.
3. **GROUNDWATER CONCERN OVERLAY.** The boundary of this Overlay zone (GW-O) is established herein as delineated on the most current edition of the Town of Schaghticoke Zoning Map and is based upon the Groundwater Assessment Study for the Town of Schaghticoke (2004).
4. **HISTORIC OVERLAY.** The boundary of this Overlay zone (H-O) is established herein as delineated on the most current edition of the Town of Schaghticoke Zoning Map and is based upon the historic location of the Knickerbocker Mansion and surrounding locations where historic events and structures existed.

F. **CLASSIFICATION OF ANNEXED LANDS.** Any land hereafter annexed to or consolidated with the Town of Schaghticoke shall be deemed to be zoned the same as the contiguous area until such land is reclassified by specific amendment to this Local Law.

G. **APPLICATION OF DISTRICT REGULATIONS.** Except as hereinafter or otherwise provided:

7. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged except in conformance with the regulations herein specified for the district in which it is located.
8. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
9. No yard or lot existing at the time of passage of this Local Law shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet the minimum requirements established by this Local Law.
10. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or part, the off-street parking or loading space required for another building or use except as otherwise provided for this Local Law.
11. No off-street parking or loading space shall be so reduced in area that it does not meet the requirements of this Local Law.
12. Within each district, the regulations set forth by this local law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure, or land.

SECTION III.

USE REGULATIONS

- A. SCHEDULE OF USE REGULATIONS. The general use regulations in each zoning district are set forth in the attached “SCHEDULE OF USE REGULATIONS”. This schedule is supplemented, as appropriate, by other provisions of this Local Law.

Whenever in such schedule there appear the words, “All uses in (symbol of district)” such words shall be construed to include the specific limitations set forth in the same column for the district thus referred to. Otherwise, all limitations as to use shall be those set forth in such schedule, which for each district named shall be read from top to bottom. Notwithstanding, any other provisions herein in the event a special permit is sought for a particular use not enumerated herein, the Planning Board may nevertheless, grant said permit providing the use is in keeping with the general intent of the land use of the Town and not inconsistent with or incompatible with other permitted uses in the area.

- B. LIMITATIONS ON PRINCIPAL USES. More than one residence or dwelling is permitted upon a lot upon issuance of a Special Use Permit and compliance with these regulations and subdivision regulations.

ZONING SCHEDULE OF USE REGULATIONS, SCHAGHTICOKE, NEW YORK

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED USES SUBJECT TO SITE PLAN REVIEW	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
RA Residential Agricultural	one-family dwelling	Horse Farm or Horse Boarding	home occupations	two-family dwellings
	agricultural & horticultural crops and livestock	Greenhouse	private garage or carport	multi-family dwellings
	storage or processing of farm produce	Farm Market	renting of rooms (2 max.)	accessory apartment
	municipal buildings and uses	Agri-tourism uses	garden houses, pool houses or swimming pool	schools, parks, museums, libraries & churches
		U-pick agricultural operations	outside agricultural storage	public utilities
		Roadside Stand	fowl and domestic animals	cemeteries
		Bed and Breakfast Inns	parking and loading	veterinarian's office
			Agricultural Accessory Use	dog kennels
				hospitals and sanitariums
				nursing homes and senior citizen housing
				membership clubs
				recreation vehicle parks
				mining and excavation
				farm and garden equipment sales & service
				camps and campgrounds

				storage of construction vehicles
				outdoor recreation
				professional offices
				general contractors
				motor vehicle repair
				renting of rooms (>2)
				signs
				nursery schools
				rural business
				summer colonies
				Riding Stable or Academy

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
R Residential	one-family dwelling	home occupations	two-family dwellings
	agricultural & horticultural crops and livestock	private garage or carport	accessory apartment
	storage or processing of farm produce	quarters for household employees	schools, parks, museums, libraries & churches
	municipal buildings and uses	renting of rooms (2 max.)	public utilities
		garden houses, pool houses or swimming pool	cemeteries
		farm market	veterinarian's office
		outside agricultural storage	hospitals and sanitariums
		fowl and domestic animals	nursing homes and senior citizen housing
		parking and loading	membership clubs
			outdoor recreation
			renting of rooms (>2)
			roadside stand
			signs

			nursery schools

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
R 40 Residential	one-family dwelling	home occupations	two-family dwellings
		private garage or carport	accessory apartment
		quarters for household employees	schools, parks, museums, libraries & churches
	municipal buildings and uses	renting of rooms (2 max.)	public utilities
		garden houses, pool houses or swimming pool	cemeteries
		parking and loading	roadside stand
			signs

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES (*denotes use subject to site plan review)	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
HD - All Hamlets	one-family dwelling	home occupations	multi-family dwellings*
	Two-family dwellings	private garage or carport	row and attached housing*
		parking and loading	churches
		storage shed	bus depot
		Swimming pool	membership clubs or lodges
		Sauna, gazebo	eating and drinking establishments
		Public park or playground	dry cleaning and laundry establishments
			motor vehicle service stations, including all gasoline sales
			theaters (except drive-ins)
			public recreational facilities commercially operated
			convenience food store
			retail stores
			personal service shops

			appliance repair stores
			funeral homes
			business and professional offices
			Municipal and civic buildings
			libraries and museums
			signs
			Bed and Breakfast Inns*
			Residential care facility

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
HC Highway Commercial	agricultural & horticultural crops and livestock	parking and loading	public recreational facilities commercially operated
	storage or processing of farm produce		outdoor sales lots
	municipal buildings and uses		hotel or motel
	mining and excavation		warehouses
			Single Family dwelling
			Two-Family dwelling
			light manufacturing
			general contractors
			building supply and construction companies
			veterinarian's office
			truck freight terminal
			moving companies
			shopping centers
			asphalt and concrete production
			Bus, truck or rail depot
			motor vehicle service stations including all gasoline sales
			convenience food store
			junkyards
			signs

		retail stores
		personal service shops
		appliance repair stores
		funeral homes
		business and professional offices
		libraries and museums
		eating and drinking establishments
		churches
		membership clubs or lodges
		dry cleaning & laundry establishments
		theaters
		Municipal buildings
		Public utilities
		Outdoor storage of building supplies
		Motor vehicle parts storage area
		Multi-use buildings
		Storage of construction vehicles

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
HC-1 Highway Commercial	agricultural & horticultural crops and livestock	parking and loading	public recreational facilities commercially operated*
	storage or processing of farm produce		outdoor sales lots*
	municipal buildings and uses		hotel or motel
	mining and excavation		
			light manufacturing
			general contractors
			building supply and construction companies
			veterinarian's office
			shopping centers
			motor vehicle service stations including all gasoline sales
			convenience food store
			signs

		retail stores
		personal service shops
		appliance repair stores
		funeral homes
		business and professional offices
		libraries and museums
		eating and drinking establishments
		churches
		membership clubs or lodges
		dry cleaning & laundry establishments
		Theaters*
		Municipal buildings
		Public utilities
		Outdoor storage of building supplies*
		Multi-use buildings

DISTRICT	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	SPECIAL PERMIT USES (All uses requiring a special use permit must also receive site plan approval as per Section VII of this local Law.)
MD Marine District	One-family dwelling	home occupations	two-family dwellings
	agricultural & horticultural crops and livestock	private garage or carport	loading & unloading ships and barges
	storage or processing of farm produce	quarters for household employees	storage of materials for loading & unloading ships & barges & facilities necessary thereto
		renting of rooms (2 max.)	Marinas
		garden houses, pool houses, or swimming pool	municipal buildings
		farm market	Boat launches
		outside agricultural storage	Fishing docks
		fowl and domestic animals	Yacht clubs
		parking and loading	Eating and drinking establishments
			signs
			Bed and Breakfast Inns

PD See Section VIII of this Local Law
Planned
Development

MHN
Mobile Home Neighborhood See Section V of this Local Law

SECTION IV.

AREA AND BULK REGULATIONS

- A. SCHEDULE OF AREA AND BULK REQUIREMENTS. The general area and bulk requirements in each zoning district are set forth in the attached “SCHEDULE OF AREA AND BULK REQUIREMENTS”. This schedule is supplemented, as appropriate, by other provisions of this Local Law.
- B. EXISTING LOTS. Nothing contained herein shall prohibit the use of a lot of less than the prescribed area, width or depth, when such lot is owned individually or separately from any adjoining tract at the time of enactment of this Local Law, provided that all other provisions of this Local Law are met.
- C. HEIGHT EXCEPTIONS. The height limitations of these regulations shall not be applicable to barns and silos, grain elevators, private home antennae, and for the following, provided that such areas, not including solar energy devices, do not exceed ten percent (10%) of the roof area to which they are a part; flag pole, spire, belfry, chimney, transmission tower, skylight, water or cooling tower, elevator or stair bulkhead. No such tower, or other exception, shall be used as a place for habitation or for advertising unless otherwise authorized by this Local Law.
- D. MODIFICATIONS PERMITTED.
 - 1. Lot Depth.
 - a. The required depth may be decreased at any point provided that the average lot depth conforms with the minimum required.
 - b. The depth of any lot with relation to its width shall be maximum of 4.5 times the width as measured along the right-of-way except for lots located within a cul-de-sac, where the width shall be measured at the front building line. The Planning Board may reduce this requirement if, in its judgment, a reduction will result in more open space being preserved or if such lot design enhances rural character or environmental health.
 - c. Lot depth may be varied when a cluster or conservation subdivision design is required or proposed.
 - 2. Required Yards.
 - a. If two (2) or more existing dwellings are located within two hundred (200) feet on each side of the proposed dwelling and on the same side of the street within the same block and zoning district, said proposed dwelling need not have a greater front yard than the average setback of all existing dwellings so located.
 - b. On streets with less than a fifty (50) feet right-of-way, the front setback shall be measured from the centerline of the existing right-of-way and twenty-five (25)

feet shall be added to the required front yard setback.

- c. Required yards may be varied when a cluster or conservation subdivision design is required or proposed.

E. CORNER LOTS

1. Required Front Yards. On a corner lot, each street frontage shall be deemed a front street line, and the required yard along each such lot line shall be the required front yard. The required side yard and the required rear yard shall be determined by the orientation of the main structure.
2. Obstruction at Street Intersections. At all street intersections, no obstructions to vision, such as a fence, wall, hedge, structure or planting over three (3) feet in height shall be erected on any lot within the triangle formed by the intersection street lines or their projections where corners are rounded and a straight line joining said street lines at points which are forty (40) feet distant from their point of intersection measured along the edge of travel lane of said street lines and/or projections.

F. STRUCTURES IN REQUIRED YARDS.

1. The following accessory structures may be located in any required yard except where such constitute a permanent obstruction in an required front yard in any district:
 - a. Chimneys and pilasters;
 - b. Open arbor or trellis;
 - c. Unroofed steps, patio or terrace not less than twenty (20) feet from the highway right-of-way;
 - d. Awning or movable canopy not to exceed ten (10) feet in height;
 - e. Retaining wall, fence or masonry wall, except as limited by Section V (D) of this Local Law; or
 - f. Overhanging roof not in excess of ten percent (10%) of the required front yard depth.
 - g. An accessory structure, except as allowed herein, shall not be located within the minimum front yard setback.
2. The following accessory structures may be located in any side or rear yard, subject to the limitations contained herein:
 - a. Private in-ground or above-ground swimming pool not less than ten (10) feet from the side or rear lot line, in conformance with the requirements of Section V (I);

- b. Energy collection devices not less than ten (10) feet from the side or rear lot line; and
- c. Permitted accessory buildings, provided all the following criteria are met:

- (1) no such building shall exceed the average height of the principal structure;
- (2) no such building shall be set back less than ten (10) feet or the height of the accessory structure, whichever is greater, from any lot line;
- (3) all such buildings in the aggregate shall not occupy more than thirty percent (30%) of any required yard;
- (4) no such building shall project closer to the fronting street than the minimum front yard setback; and
- (5) not more than two (2) such accessory structures, other than a permitted sign or satellite antenna, of which no more than one shall be a private sign or a private garage, shall be permitted by right on an individual lot. In the event the lot exceeds 2 acres, any additional accessory structure may be allowed by a special use permit.

- 3. Where two or more main buildings are located on a parcel in single ownership, said buildings shall conform to all the requirements of this Local Law which would normally apply to each building if each were a separate lot.

G. MINIMUM LOT FRONTAGE.

- 1. All lots proposed for building purposes in the Town of Schaghticoke shall have a minimum “Lot Frontage” of one hundred feet, as measured along the Right-of Way of any Town, County, or NYS Highway unless such lot is proposed for a clustered or conservation design subdivision or such lot is located within one of the Hamlet districts. Such one hundred (100) foot portion of the lot shall be no less than 100 hundred (100) feet throughout its entire length leading to the buildable portion of the lot. Lot frontage shall be established at the time of review for clustered or conservation design subdivisions. See Zoning Schedule of Area and Bulk Requirements for lot frontage requirements for uses in the Hamlet Districts.

2. Exceptions:

- a) Cul-de-sac – Exception to this provision will be granted for lots located within a cul-de-sac, where all lots shall have a minimum “Lot Frontage” of fifty feet, as measured along the Right-of-Way of such cul-de-sac, and have a minimum width of one hundred (100) feet at the front building line.
- b) Flag Lots – Exception to this provision may be granted for lots designed as “flag lots”, “keyhole lots”, etc., provided that:

- 1) in the opinion of the Planning Board, the character of the land precludes typical subdivision development or a unique and desirable lot can be created;
- 2) the creation of a flag lot is not to circumvent typical subdivision with the internal street development;
- 3) the proposed lot is a minimum of 3 Ac.;
- 4) the proposed lot has a minimum “Lot Frontage” of fifty (50) feet, as measured along the right-of-way of the fronting highway, and shall be no less than fifty (50) feet throughout the entire length leading to the buildable portion of the lot;
- 5) the required setbacks can be met when measured from the point where the lot meets the required minimum lot width for that zoning district.

H. Calculating Density

Density shall be calculated for lots constrained with wetlands, floodplains, steep slopes, open water, or other environmental limitations. Where these limitations exist, the Planning Board may require establishment of a building envelope located outside of these constrained areas.

ZONING SCHEDULE OF AREA AND HEIGHT REQUIREMENTS, SCHAGHTICOKE, NEW YORK

DISTRICT	MINIMUM LOT AREA Per D.U.	NUMBER OF DWELLINGS	MAXIMUM STRUCTURE COVERAGE	MINIMUM OPEN SPACE	MAXIMUM ¹ HEIGHT
	Sq. ft.	PER ACRE	%	%	ft./stories
RA		1 d.u. per 3 acres			
Single-family	(2)		10%	50%	45'/3.0
with public water	(3)				45'/3.0
with public sewer	(3)				45'/3.0
with water and sewer	(4)		15	40	45'/3.0
Two-family	(2)		10	50	45'/3.0
with water or sewer	(3)				45'/3.0
with water and sewer	(4)				45'/3.0
Multi-family*	40,000		20	50%	45'/3.0
R		1 d.u. per 3 acres			
Single-family	(2)		10%	50%	45'/3.0
with public water	(3)				45'/3.0
with public sewer	(3)				45'/3.0
with water and sewer	(4)		15	40	45'/3.0
Two-family	(2)		10	50	45'/3.0
with water or sewer	(3)				45'/3.0
with water and sewer	(4)		15	40	45'/3.0
R40		Same as Min. Lot			
Single-family	40,000	Area Per D.U.	10%	50%	45'/3.0
with public water	30,000				45'/3.0
with public sewer	30,000				45'/3.0
with water and sewer	20,000		15	40	45'/3.0
Two-family	75,000				45'/3.0
with water or sewer	60,000		10	50	45'/3.0

DISTRICT	MINIMUM LOT AREA Per D.U.	NUMBER OF DWELLINGS	MAXIMUM STRUCTURE COVERAGE	MINIMUM OPEN SPACE	MAXIMUM ¹ HEIGHT
	Sq. ft.	PER ACRE	%	%	ft./stories
with water and sewer	40,000		15	40	45'/3.0
Multi-family*	90,000		20	50%	45'/3.0
HC*	40,000 per structure	NA	35	20	45
with water or sewer	40,000 per structure	NA	35	20	45
with water and sewer	30,000 per structure	NA	40	20	45
MD*	40,000	Same as Lot Area per D.U.	20	30	45
MHN*	Established on a project by project basis in accordance with Section VIII of this Local Law				
PD*					
HD Melrose	30,000	Same as Lot Area per D.U.	35	20	45
with water or sewer	20,000		35	20	45
with water and sewer	10,000		45	20	45
HD Spieglestown	30,000	Same as Lot Area per D.U.	35	20	45
with water or sewer	20,000		35	20	45
with water and sewer	10,000		45	20	45
HD Pleasantdale	20,000	Same as Lot Area per D.U.	35	20	45

DISTRICT	MINIMUM LOT AREA Per D.U.	NUMBER OF DWELLINGS	MAXIMUM STRUCTURE COVERAGE	MINIMUM OPEN SPACE	MAXIMUM ¹ HEIGHT
	Sq. ft.	PER ACRE	%	%	ft./stories
with water or sewer	20,000		35	20	45
with water and sewer	10,000		45	20	45
HD Hemstreet Park	20,000	Same as Lot Area per D.U.	35	20	45
with water or sewer	20,000		35	20	45
with water and sewer	10,000		45	20	45

NOTE: LOT AREA REQUIREMENTS IN ALL DISTRICTS AS STATED ARE THE MINIMUM REQUIRED. THE LAYOUT AND DESIGN OF ANY LOT IS CONTINGENT UPON SOIL CONDITIONS, TOPOGRAPHY, AND OTHER NATURAL CONSTRAINTS, AND IS CONTINGENT UPON THE APPROVAL OF THE RENSSELAER COUNTY HEALTH DEPARTMENT FOR ALL “ON-SITE” SANITARY AND WATER SUPPLY SYSTEMS.

* Site plan review and approval (see Section VII) required prior to issuance of building permit;
Rensselaer County Healthy Department water supply and sewage disposal permits also required.

- 1. Maximum height requirement in HC is sixty (60) feet for all non-residential and non-public assemblage structures.**
- 2. (No water or sewer present): Minimum lot area shall be based upon the lot size required to place well and sewer system as required by the Rensselaer County Department of Health.**
- 3. (Water or sewer present): Minimum lot area shall be based upon the lot size required to place well or sewer system as required by the Rensselaer County Department of Health.**
- 4. (Water and sewer present): Minimum lot size can vary but shall average a minimum of 30,000 sf.**

ZONING SCHEDULE OF LOT DIMENSION AND BULK REQUIREMENTS, SCHAGHTICOKE, NEW YORK

DISTRICT	MINIMUM LOT WIDTH/DEPTH FT.	MINIMUM SIDE YARD FT.	MINIMUM FRONT YARD FT.	MINIMUM REAR YARD FT.	MINIMUM FLOOR AREA SQ FT./D.U.
RA					
Single-family	200/200	30	50	35	600
with public water	175/200	30	50	35	600
with public sewer	175/200	30	50	35	600
with water and sewer	125/150	25	35	30	600
Two-family	200/200	30	50	35	600
Multi-family*	200/200	50	50	50	600
R					
Single-family	200/200	30	50	35	600
with public water	175/200	30	40	35	600
with public sewer	175/200	30	40	35	600
with water and sewer	125/150	25	35	30	600
Two-family	200/200	30	50	35	600
R40					
Single-family	150/200	30	50	35	600
with public water	125/175	30	40	35	600
with public sewer	125/175	30	40	35	600
with water and sewer	100/150	25	35	30	600
Two-family	200/200	30	50	35	600
Multi-family*	200/200	50	50	50	600
HC*					
	150/200	30 (3)	50	40 (3)	NA
with water or sewer	125/175	30 (3)	40	35 (3)	NA

DISTRICT	MINIMUM LOT WIDTH/DEPTH FT.	MINIMUM SIDE YARD FT.	MINIMUM FRONT YARD FT.	MINIMUM REAR YARD FT.	MINIMUM FLOOR AREA SQ FT./D.U.
with water and sewer	100/150	25 (3)	40	35 (3)	NA
MD*	125/175	30 (3)	40	40 (3)	NA
MHN*	Established on a project by project basis in accordance with Section V of this Local Law				
PD*	Established on a project by project basis in accordance with Section VIII of this Local Law				
HD MELROSE	50/150	10	25	20	600
HD Spiegletown	100/150	20	20	20	600
HD Pleasantdale	50/100	10	20	20	600
HD Hemstreet Park	50/100	10	10	20	600

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2. End units in attached or row housing will provide a minimum side yard of fifty (50) feet.
 3. Required yard shall be increased to fifty (50) feet for lots adjacent to a residential district boundary. Twenty (20) feet adjacent to the residential district shall be used as a planting strip; the remaining area may be used for off-street parking.

SECTION V. SUPPLEMENTARY REGULATIONS

The following supplementary regulations are applicable to all zoning districts within the Town of Schaghticoke unless otherwise provided herein. The Building Inspector shall determine whether the permitted use complies with the following standards.

A. GENERAL PERFORMANCE STANDARDS. No use shall be permitted that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other local, state and federal laws:

1. Noise. No noise shall exceed intensity, as measured from the boundaries of the lot where such use is situated, which shall exceed levels normally associated with activities allowed within the zoned district.
2. Atmospheric effluence. No reasonable dust, dirt, smoke, odor or noxious gasses shall be disseminated beyond the boundaries of the lot where such use is located.
3. Glare and Heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
4. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system stream, or on or into the ground, except in strict accordance with the standards approved by the Rensselaer County Department of Health or other duly-empowered agency.
5. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
6. Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All burning of such waste materials in open fires is prohibited.
7. Landscaping. All open portions on any developed lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, grass or other planted ground cover, or by paving with asphalt, concrete, crushed rock or by other material as shall be approved by the Planning Board. Required yard areas shall be planned and maintained in such a manner as to provide an inoffensive setting which is consistent with the general use of the area.

B. ACCESS, PARKING AND LOADING STANDARDS.

1. Access Standards and Guidelines

- a. Access from major streets. Lots in subdivisions should be arranged to minimize driveway access from major streets. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street. See also Driveway Standards, Section V, (C) for standards related to shared driveways.
- b. Frontage Required. No building permit or Certificate of Occupancy shall be issued for any structure or use unless the lot on which that structure or use is located has frontage of at least 25 feet on a street.
- c. Vehicle Access and Circulation.
 - (1) Multiple curb cuts shall be consolidated to the maximum extent practicable in order to provide clearly defined entrances and reduce conflicting vehicular movement.
 - (2) All uses shall utilize the existing streets to the maximum extent practicable.
 - i. Any new street shall be constructed in full compliance with the requirements of Road Specifications of the Town of Schaghticoke as they may exist.
 - (3) Driveways shall comply with the following unless otherwise specifically excepted under the provisions of this Section.
 - i. The minimum distance between the centerline intersection of any two streets and the intersection of a driveway centerline and one of said street centerlines shall be no less than 60 feet.
 - ii. All driveway entrances to streets shall be constructed in compliance with the applicable regulations of the state, county or local agency having jurisdiction over such street.
 - iii. In any hamlet, wherever a driveway or alley crosses a walkway, special paving accents or textures should be provided to delineate the walkway.
 - (4) Sight triangle. To assure motorists have a clear line of sight at intersections, the reviewing agency shall refer to guidance in “Guidelines for Driveway Design and Location,” by the Institute of Transportation Engineers, and “Policies and Standards for Entrances to State Highways,” published by the New York State Department of Transportation. In general, except for existing trees having all branches within six feet of the

ground removed, no structure or planting more than three feet in height, as measured from the street surface at the nearest edge of the street, should be erected, placed or maintained within the triangular area formed by:

- i. For streets, the intersecting centerlines of the streets and a line through two points each of which is 45 feet distant from such intersection along said centerline.
- (5) All streets should be separated physically from walkways by a curb, vegetated strip or other physical separation.
 - (6) Fire-lanes providing access for emergency vehicles shall be established, identified and maintained free from obstruction.
 - (7) In order to minimize the number of entrances and exits on State routes within a residential, Hamlet, or Commercial District, owners of lots having frontage on these roads should cooperatively develop inter-lot connections between parking lots, driveways and alleys, insofar as practicable, as part of any new development.

2. Permitted Accessory Parking.

- ~~a. There is no limitation on the number of agricultural vehicles permitted accessory to farm use.~~
- ~~b. Not more than one commercial vehicle over twenty (20) feet in length may be parked on a residential lot in a RA, R, R40 Residential District.~~
- ~~c. Not more than one unoccupied camping trailer and boat may be stored outside on a residential lot. Such vehicles shall be stored only on that portion of the lot behind the minimum front yard.~~
- a. There is no limitation on the number of agricultural vehicles permitted accessory to farm use.
- b. Not more than one commercial vehicle over twenty (20) feet in length may be parked on a residential lot in a RA, R, R40 Residential District or in any Hamlet District.
- c. Not more than one unoccupied camping trailer and boat may be stored outside on a residential lot. Such vehicles shall be stored only on that portion of the lot behind the minimum front yard.

3. Parking Standards and Guidelines.

- a. Except as provided herein, no off-street parking or loading area shall be constructed or provided until a site plan describing such parking and loading improvements has been approved.
 - b. No Certificate of Occupancy shall be issued for any use until the required off-street parking has been established in conformance with this Section.
 - c. Whenever practicable, on-street parking should be encouraged in the hamlets and Commercial Districts. On-street parking may be considered as satisfying any required off-street parking where it can be demonstrated that the on-street parking is underutilized. On-street parking shall require the approval of the state, county or Town agency having jurisdiction over the subject street.
4. Required off-street parking. The Planning Board shall determine reasonable and appropriate off street parking requirements based on the guidelines set forth below. The number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. In determining the parking requirements for any proposed use, the Planning Board shall consider the maximum number of person who use the parking lot at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of anticipated peak demand. The recommended number of spaces for off-street parking out detailed below. For structures and uses which do not come within the following guidelines, the Planning Board shall determine reasonable parking requirements taking into consideration all factors entering into the parking needs of each such case as part of their site plan or special permit study and review.

Uses and Recommended Number of Spaces for Off-street Parking

Bowling alley	4 spaces per bowling lane
Public amusement without seating	1 space per 50 sf. floor space
Church	1 space per 5 pew seats
Theater, auditorium, athletic field	1 space per 5 seats
Place of public assembly	1 space per 5 seats or 50 sf.
Funeral parlor	1 space per 4 seats;
	1 space per employee
Gas Station	At least 4 spaces
Hospital, convalescent home	1 space per 3 beds;
	2 spaces per 3 employees
Medical clinic	3 spaces per doctor;
	1 space per employee
Motel	1 space per unit;
	2 spaces per 3 employees
Motor vehicle repairs	At least 10 spaces;
	2 spaces per 3 employees

Multifamily dwelling	2 spaces per dwelling unit
Business or Professional Offices	1 space per 200 sf. net rentable area
One- and two-family residences	2 spaces per dwelling unit
Restaurant or food dispensing facility	1 space per 50 sf. for patron use;
	2 spaces per 3 employees
Retail or service business	1 space per 300 sf. floor area;
	2 spaces per 3 employees
Bed & Breakfast	1 space per guest room;
	1 space per DU
Wholesale, storage, utility	1 space per 1,000 sf. Gross floor area; 2 spaces per 3 employees

5. Where practicable, all off-street parking shall be located to the rear or side of the building and to the rear of the front building line of the building it serves. Where it is not practicable to locate off-street parking in this manner, the Planning Board may require screening of such parking, such as with a stone wall, landscaped berm, and/or landscaping sufficient to effectively screen from view the automobiles parked therein when viewed from the street or walkway.

- a. No improvement that is a part of any off-street parking facility shall be located closer than five feet from any lot line exclusive of any driveway providing access for such facility.
- b. No off-street parking shall be located within any required open space.
- c. Parking shall not dominate any site when viewed from the street providing frontage for such site. Large uninterrupted areas of parking stalls that significantly reduce the continuity or quality of natural open space shall not be permitted. Off-street parking shall be developed as small (6,000 - 12,000 sq. ft.), well-distributed and landscaped areas, interconnected by driveways and walkways that provide visual relief.
- d. The total impervious surface provided for all parking stalls and aisles shall not exceed the product of 350 square feet times the number of stalls provided.
- e. No parking space or stall shall be less than nine feet in width.
- f. All parking stalls shall be provided with a backup and maneuvering aisle. When 90 degree angle parking is used, the stall length and aisle width, when combined, shall provide a clear uninterrupted dimension of at least:

- i. 60 feet when stalls are located along both sides of the aisle.
 - ii. 35 feet when stalls are located along one side only of the aisle.
 - iii. Parking designs with angle parking less than 90 degrees may have shorter total dimensions of stall and aisle as the Planning Board finds appropriate.
- g. All off-street parking shall be graded and maintained to the extent necessary to avoid nuisances of dust, erosion or excessive storm water flow onto or across walkways, streets or adjacent lands.
- h. All off-street parking for more than five vehicles shall be marked in accordance with generally accepted standards or applicable regulations to identify individual parking stalls, maneuvering aisles, pedestrian crossings, handicap spaces, entrances, exits, vehicle movement and fire lanes.
- i. Any off-street parking for 17 or more vehicles should provide curbed planting islands or beds within the parking area equal in total area to 15% of the total square footage of all stalls and aisles.

6. Off-Street Parking Landscaping.

- a. Any planting bed located within a parking lot should contain at least one tree and such other plant materials as are recommended by a landscape design professional, architect, engineer or nurseryman for such location for purposes of establishing vertical interruption and definition to vehicular movement.
 - ii. Any required street parkway or median should include trees, shrubs, ground cover and grass as appropriate to minimize impervious materials and to provide definition for any walkway contained therein.

7. All open parking areas shall be properly drained and all such areas of over ten (10) spaces shall be provided with a dustless surface.

8. Required parking spaces may be provided in areas designed to jointly serve two (2) or more establishments whether or not located on the same lot, and the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

9. When any lot contains two (2) or more uses having differing parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not, or are not, in operation, the Planning Board may reduce the total number of parking spaces required for that use with the least requirement.

10. Lighting in parking lots. The Planning Board may require that lighting in parking lots be extinguished within 1 hour of the end of closing. Building security lights on motion detector switches are acceptable. Parking areas in which light are necessary all night shall be lighted in a manner that does not result in glare to adjacent residential properties or cause a traffic hazard due to glare.

11. Future Parking. The Planning Board may require that an applicant set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be landscaped, but may not be used in a manner that would prevent it from being used for parking in the future.

12. Shared Parking. In cases where two or more developments are adjacent, the Planning Board may require cross-access easements between adjacent parking lots to provide for interconnected parking and to facilitate traffic and control access on the main road. Shared parking facilities are encouraged.

13. Required Off-Street Loading. Off-street loading berths, open or enclosed, are permitted accessory to any use (except one – through four-family residences) subject to the following design standards;

- a. Each required loading berth shall be at least twelve (12) feet wide, thirty (30) feet long, and fourteen (14) feet high.
- b. Unobstructed access, at least twelve (12) feet wide to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as permitted below. No entrance or exit for any off-street parking or loading area shall be located within fifty (50) feet of any street intersection, nor shall any off-street loading berth be located in any front yard.
- c. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two (2) or more adjacent establishments.
- d. Loading docks shall be placed behind or on the side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent glare, noise or exhaust fumes and shall prevent direct views of the loading areas from the public rights-of-way. Screening can also be achieved through use of walls or fences.

C. Driveway Standards

1. Driveway grades shall not exceed 10%.
2. In order to minimize curb cuts onto existing or proposed roads, to maintain vegetated buffers along existing roads, or to preserve open space and rural character, the Planning Board may accept or require adjoining lots to utilize a shared driveway, or two adjoining driveways with a single curb cut. Shared driveways or access ways are

preferred over multiple curb cuts. No common drive shall provide access to more than four lots. The Planning Board shall require that an offering plan is filed or a no-action or similar determination letter is obtained with the New York State Department of Law whenever there is a common interest in real property such as a shared road or driveway. This is to insure that the developer puts purchasers on notice as to their liabilities and responsibilities or both for maintenance of the common road or driveway.

D. Lighting

1. No artificial illumination device should be erected, constructed or otherwise installed so as to illuminate an exterior wall of any existing residential building that is not located on the lot served by such device, to the extent that it would disturb a reasonably sensitive individual in the adjacent residence. This section does not regulate street lights maintained or operated by the town or another governmental agency.
2. The maximum height of any freestanding illuminating device should be 18 feet as measured from the finish grade at the base of the supporting structure to the highest point on the device.
3. The horizontal illuminances for parking facilities should be a minimum of 0.2 footcandles on pavement (for security lighting) to 0.9 footcandles (for high levels of activities) with a uniformity ratio of 4:1.
4. Any illuminating device located within, along or immediately adjacent to any walkway should be restricted to a maximum height of 12 feet as measured from the finish grade directly below such device to the highest point on such device.
5. No illuminating device shall consist of any flashing, blinking or moving light source.
6. Any illuminating device that incorporates a lamp greater than twenty-five watts shall use fully shielded fixtures to prevent glare.
7. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall vegetation, fences, and similar screening methods be considered acceptable for reducing glare.

E. Building Layout and Design Guidelines

1. For Hamlet Districts

- a. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals. It is not the intent to discourage contemporary architectural expression, but to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures with existing.
- b. Building Design Recommendations:
 1. The front façade of the building shall be parallel to the main street.
 2. Maximum building setbacks shall not be greater than the average setback of the nearest two buildings on either side of the site and shall, in no case, exceed 30 feet.
 3. The scale and mass of buildings shall be compatible with that of adjacent and nearby buildings as viewed from the street.
 4. In order to minimize the apparent scale of buildings greater than 80' in width, facades facing the main street should be broken by periodic setbacks and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas may also be used.
 5. All roofs should be gabled with a minimum pitch of 5" vertical rise for each 12" horizontal run. Peaked or sloped roof dormers and cupolas are encouraged.
 6. All roof, wall or ground mounted mechanical equipment shall be confined within the principal structure or within an area enclosed by a wall, fence, berm, or hedge to screen the equipment year round from view from adjacent streets, properties and parking lots.
 7. All dumpsters or other trash containers shall be fully enclosed by a fence and screened by appropriate landscaping with the preferred location to the rear of the building.
 8. All trademarked architecture is prohibited.
 9. The incorporation of small, landscaped, front yards should be encouraged with any new residential or commercial use.
 10. The development of public parks, commons, or small pedestrian plazas with amenities such as benches and landscaping should be encouraged in the Hamlets.
 11. The adaptive reuse of historic structures should be encouraged in such a way so as to complement the character of the existing Hamlet.
 12. Where practicable, new buildings adjacent to significant historic structures should be designed in a manner consistent with the general

architectural features of such historic structures in terms of form, materials, and fenestration and roof shape.

13. New or in-fill buildings in the Hamlet District should be located as close to the front setback line as possible and in line with existing buildings to maintain the integrity of the existing building setback line of the street.

c. Sidewalks and Street Trees:

1. Where no sidewalks exist, the Planning Board may require new uses to construct 5-foot wide sidewalks located with a 3-foot green space between the road and the sidewalk edge. Where sidewalks exist, new sidewalks shall be constructed to transition to existing walkways.

2. Existing street trees should be preserved whenever possible. If no existing street trees are present, deciduous trees with a minimum of 3" caliper trunk should be planted at minimum 30' intervals along the road frontage. Street trees can be planted within the first 10 feet of the front yard, or in the area between the street and sidewalk.

3. Major modifications to the existing landscape such as extensive grading, clear-cutting of trees, or other similar activities should be avoided to the extent possible.

d. Streets and Access:

1. Where practicable, service alleys for deliveries and utility access should be established along rear property lines.

2. The primary means of access to lots in the Hamlet District should be via the existing street corridors.

3. Any off-street parking or loading areas, accessory use structures or storage other than sheds should be screened from all walkways and streets utilizing appropriate vegetation and/or fencing.

2. For Commercial Uses

- a. For all new commercial development under review in any district, any documentation describing the architectural features, location and dimensions of buildings shall be prepared by an architect or an engineer, including documentation describing new buildings, additions or alterations to existing buildings and all physical improvements accessory to, or necessary for, such buildings.

- b. Architectural features are regulated by the Bulk Regulations and the State Building Code. In addition, the following guidelines shall apply:
1. The primary entrances to any building should be oriented to the lot frontage. Secondary entrances should be oriented to parking, plazas or parks.
 2. New buildings, or additions to existing buildings, should reflect any discernable pattern of window and door openings that is established among adjacent structures or is present in the existing building.
 3. The construction of any blank, windowless facade facing a street that provides frontage for the lot on which the building is located should be avoided.
 4. Roof Shape. New buildings should have a roof shape similar in proportion, form and character to that, which is present on the majority of the existing structures having frontage on the same corridor.
 - a. Dead-flat roofs are inconsistent with the traditional character of the Town and should be avoided, except where the size or type of the building requires a flat roof and façade variations and other architectural features can disguise the flatness of the roof.
 5. Structures that are visible from a public road shall be compatible with each other and in keeping with traditional architecture, design, massing, materials, and placement and shall harmonize with traditional elements in the rural landscape of the area. Trademarked architecture which identifies a specific company by building design is discouraged, except in a Hamlet District where it is prohibited.
 6. In order to minimize the apparent scale of buildings greater than 80' in width, facades facing the main street should be broken by periodic setbacks and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas may also be used.
 7. In order to screen parking lots and establish a more traditional streetscape, commercial developments that include a diversity of structure sizes shall place structures less than 30,000 square feet in size on the parcel so that the front faces the main street and with a maximum setback of 75' and structures larger than 30,000 square feet in size shall be sited on the parcel to the rear and behind the smaller structures.
 8. Drive-up windows for any proposed or existing land use, where allowed by lot configuration, shall be placed at the rear of the building.
 9. In order to control traffic, the Planning Board may require, where appropriate, reductions in lane widths, use of shared access drives, shared parking lots, and rear service road connections.

F. SIGN REGULATIONS.

1. General Regulations. The provisions contained within this section shall apply to all signs and all use districts, regardless of designations, within the Town of Schaghticoke.

- a. Any sign or use of signs not specifically allowed by provision of these regulations may be permitted upon approval of a Special Use Permit by the Planning Board.
- b. No sign shall be located in such a way as to interfere with driver vision or other traffic.
- c. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illuminations there from to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- d. No sign shall be located so that any part of the sign is less than 15 feet from the curbing and/or the paved portion of any street or highway or less than 30 feet from the point where two or more streets or highways intersect, as measured at the nearest edge of curbing or paved portion of the street or highway, and in no case within the street or highway right of way.
- e. No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as otherwise provided herein.
- f. All signs shall be constructed of wood, metal or other durable material approved by the Building Inspector.

2. Administrative Standards.

- a. For the purpose of determining the number of signs, a sign shall be considered to be a display surface or device containing elements organized, related, and composed to form a unit. Where advertising material is displayed in a random manner without an organized relationship of elements, each element shall be considered to be a single sign.
- b. The surface area of a sign shall be computed as including the entire area within a regular geometric form, or contiguous combination of forms, comprising all of the display area of the sign and including all of the elements of the material displayed. Frames, structural members, and other surfaces which do not bear material included within the definition of

the word “sign” shall not be included in the calculation of sign surface area. Areas permitted are maximum for each face of the sign. Total area of all faces of any sign shall not exceed twice the permitted area for one face. Signs consisting of letters painted on or attached to a building surface or to a free-standing masonry wall shall be computed by multiplying the average height of the letters by the linear distance from the first letter to the last letter of the sign.

- c. For the purposes of this Local Law, the term “sign” shall not include signs erected and maintained pursuant to, and in the discharge of, any governmental function, or required by law, ordinance or governmental regulation.

3. Permitted Signs in All Districts.

- a. The following signs are permitted in any use district without issuance of a permit or payment of a fee:

- (1) A sign denoting the name, address, profession or home occupation of the occupants of the premises on which the sign is located, such sign not exceeding two (2) square feet in area per side.
- (2) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed thirty-two (32) square feet in area and shall be located on the premises of such institutions.
- (3) A sign denoting the name and address of the occupant of the premises, such sign not exceeding two (2) square feet in area.
- (4). Signs not exceeding two square feet in area and bearing only property numbers, postal route box numbers, or names of occupants of premises.
- (5). One sign, not exceeding 24 square feet in area, designating a farm.
- (6). Non-commercial information signs. Signs providing non-commercial information to the public, including community service information signs, public utility information signs, safety signs, danger signs, no trespassing signs, local, State and/or National historical markers, traffic control signs, directional parking signs, time and temperature signs, and all signs erected by a public officer in the performance of a public duty not to exceed 4 square feet.
- (7). Temporary non-illuminated “For Sale” or “For Rent” real estate signs and signs of similar nature, concerning the premises upon which the sign is located. For residential uses, one sign per lot, not exceeding six square feet per side. For business or industrial uses, one sign per

lot, not exceeding 12 square feet, set back at least 15 feet from all property lines. All such signs shall be removed within three days after closing of the sale, lease, or rental of the premises.

4. The following signs are permitted in any use district as a special permit use subject to the procedures and requirements of Section VI of this Local Law:

- a. Any sign advertising a commercial enterprise located within a RA, R, or R40 District. Such sign shall not exceed a maximum of twenty (20) square feet in area and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such sign is located.

5. Signs in Business, Commercial and Industrial Districts.

In districts zoned HD (Hamlet District), HC (Highway Commercial), MD (Marine District), or PD (Planned Development), no sign shall be erected and maintained except by Special Use Permit as provided by the Local Law. If signs are proposed in connection with any Special Permit or Site Plan application, such signs shall be reviewed and approved under applicable criteria for the principal uses and shall not require a separate sign permit if constructed pursuant to an approved plan. Each business shall have a maximum of two of the following signs.

Sign Type	Size in square feet		Height at Top, (maximum)	Number Allowed
	HD	All Other Commercial Districts	HD, HC-1, HC-2, MD, PD	HD, HC-1, HC-2, MD, PD
Free-standing sign (one business)	16	42	12	1 per business
Wall sign	32		Not extending more than 1 foot from building side	1 per business
Projecting sign	12, projecting no more than 4 feet from building		No lower than 10 feet and no higher than 15 feet above the finished grade	1 per business
Free-standing sign (one or more grouped together on one sign structure)	60		12	1 per premise

- a. The primary purpose of each sign shall be for identification and may state the owner's name, trade names, trademarks, products sold, and/or commercial activity conducted on the premises on which the sign is located. All signs must be located on the premise of the business activity, except as noted in

provision C (7) herein relating to “directional signs”.

b. Within the Zoning Districts listed in this Section 5 except the HD (Hamlet District and MD (Marine District), electronic messaging signs, which utilize LED, LCD, or flipper matrix type lighting shall be permitted as follows:

i. Signs with flashing, intermittent, or moving lights, or any artificial light which does not maintain stationary and constant intensity and color at all times shall be prohibited, except those signs that have an electronic message that displays a message for a minimum of one (1) hour: and except signs displaying time and/or temperature shall be permitted to display a message for a minimum of 60 seconds.

ii. Beams of such signs shall not be directed upon public streets, sidewalks, or adjacent premises so as to cause glare or reflection, that may constitute a hazard upon drivers or nuisance upon neighboring properties.

iii. The illumination shall not be in excess of 0.3 footcandles above ambient lighting at a distance of 32 feet. Controls must be installed to ensure compliance.

iv. No illuminated sign shall be illuminated between the hours of 9:00 PM and 8:00 AM unless the use to which the sign pertains is open for business.

6. The Planning Board may review and grant permits for the erection of on-site directional signs provided that the individual signs do not exceed two (2) square feet in area, and are limited to text such as “Office”, “Entrance”, or “Exit”. Permits will only be granted if the applicant can clearly demonstrate that such directional sign or signs are necessary because of unusual access conditions to the business establishment and if the sign or signs are set back not less than five (5) feet from the highway right-of-way.

7. Temporary Signs. All signs of a temporary nature, such as political posters, banners, and signs of a similar nature, including church, school and civic functions, shall be permitted for a period of sixty (60) days, without permit or fee. Such signs shall not be attached to fences, trees, utility poles or the like nor placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs may not represent a commercial product, activity, or enterprise, and shall not exceed thirty-two (32) square feet per side.

The following specific temporary sign types are explicitly addressed by this Local Law as provided below:

a. Temporary window signs and posters shall be permitted without permit

or fee providing they do not exceed fifty percent (50%) of the building surface fronting the street. Where a business fronts on more than one street, each side will be considered independent from the others.

- b. Temporary “for sale” real estate signs and signs of a similar nature not exceeding six (6) square feet per side in area shall be permitted without permit or fee.
- c. Roadside stands selling agricultural produce in season shall be permitted a temporary sign area of thirty-two (32) square feet without permit and, set back at least ten feet from the public right-of-way, and are removed at the end of the selling season.
- d. A temporary single-sided real estate development or construction sign not exceeding thirty-two (32) square feet shall be permitted on property being sold, leased or developed and is to be erected parallel to the fronting highway, set back not less than fifteen (15) feet, or attached to the building face. The sign shall be limited to a duration of two (2) years, unless otherwise authorized by the Planning Board.
- e. Temporary non-illuminated window signs and posters not exceeding 25% of each window surface. (Such signs are normally used to advertise specific products or sales and are removed or replaced on a regular basis.)
- f. On-premises signs for garage sales and auctions, not exceeding four square feet for a period not exceeding four days.
- g. Political posters, banners, and signs, not exceeding six square feet on residential uses or 16 square feet on non-residential uses, provided that:
 - a. Display shall not exceed 60 days prior to any primary or general election but may continue during the period between a primary and a general election.
 - b. The names and addresses of the sponsor and/or the person responsible for removal are identified on the sign.
- h. Signs, portable or otherwise, advertising special events for non-profit organizations, such as firemen's field days, church bazaars, bake sales, etc. Such signs shall not exceed 24 square feet in area and shall not be displayed for more than 30 days.
- i. Seasonal displays generally recognized or associated with national, state or religious holiday.
- j. Signs erected and maintained by any governmental agency for the protection of the health, safety or general welfare of the public.

8. Direction Signs. Businesses and public destinations relating to, but isolated from, Route 40 and 67 shall be permitted one directional sign in a district zoned for commercial purposes as a special permit use subject to the provisions of Section VI of this Local Law and the following additional requirements:
 - a. In locations with more than one directional sign, all such signs shall be affixed to a common standard and be graphically coordinated and arranged to as to present a neat and orderly appearance. Any such standard shall be designed to accommodate the later addition of further directional signs.
 - b. No directional sign shall be more than eight (8) square feet in area. In areas with more than one directional sign, the aggregate area of all such signs shall not exceed forty-two (42) square feet.
9. Prohibited signs.
 - a. Except as permitted by Section 5(b), no exterior sign shall contain flashing, intermittent, rotating, or moving lights. ~~and external illumination is recommended.~~ Internal illumination of signs may be utilized in the HC (Highway Commercial) District and PD (Planned Development) District upon issuance of a Special Use Permit.
 - b. Portable signs that are mounted on wheels, including motor vehicles or trailers parked in one location on a long-term basis and functioning primarily as signs, shall generally be limited to new businesses only. Said signs may be allowed with a permit but are not to exceed placement at a specific location for longer than one month nor be allowed to occur more than 2 times per year.
 - c. Except as permitted by Section 5(b), no permanent sign or any part thereof shall contain or consist of any moving, rotating, or revolving device.
 - d. Location and Maintenance of Signs
 1. Signs shall be erected, constructed, and maintained in a manner that does not obstruct traffic movement or visibility or cause any hazard to public safety.
 2. No signs shall be placed, painted, or drawn on utility poles, bridges, culverts, or other road or utility structures or signposts, or on trees, rocks, or other natural features, except that signs not exceeding one square foot posting property boundaries may be placed on trees. No signs shall be placed on municipally owned property without permission of the Town Board.
 3. All signs shall be kept in good repair. Painted surfaces shall be kept neatly painted at all times.

10. Illumination.
- a. No illuminated sign or lighting device shall be placed or directed so that its light is directed or beamed toward a residence, or upon a public street, highway, sidewalk, or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or a traffic hazard.
 - b. Except as permitted by Section 5(b), all~~all~~ illuminating devices for signs, displays or display areas shall employ only lights emitting a light of constant intensity, and no illuminating device shall include any flashing, intermittent, rotating or moving light, excluding time and temperature signs. Down lighting of signs should be encouraged.
 1. No illuminating device shall produce a luminance greater than 100-foot candles when measured at the face of the sign.
 - c. Neon Signs, where permitted under this Article, shall be located only on the interior side of a window. Such signs shall emit a light of constant intensity.
 - d. For illuminated signs in zones other than HC (Highway Commercial) PD (Planned Development, interior lighting of signs is prohibited.
11. Except as permitted by Section 5(b), no sign, display, display area, or part thereof, or devices to attract attention shall move or contain or consist of pennants, ribbons, streamers, spinners, banners, flags, posters, or other moving lights, fluttering or revolving devices.

12. Removal of Signs

- a. Signs advertising an establishment or institution that has permanently closed shall be removed within one month of such closure.
- b. The Code Enforcement Officer shall notify in writing the owner of any sign which no longer serves the purpose for which it was erected, or which poses a safety hazard to the public or is otherwise in violation of this Article. The Code Enforcement Officer shall order such owner to remove or correct the unsatisfactory condition of such sign within 30 days from the date of such notice.
- c. Upon failure to comply with such notice within the prescribed time, the Code Enforcement Officer is hereby authorized to secure, repair, remove, or cause the removal of such sign. All costs of securing, repairing, or removing such sign, including related legal fees and expenses, shall be assessed against the land on which the sign is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy. In the alternative, Code Enforcement Officer may issue an appearance ticket as authorized and shall advise the Town Board of all of the facts in the case.

- d. Emergency Provisions. Where it reasonably appears that there is imminent danger to life, safety, or health or imminent damage to property unless a sign is immediately repaired, secured, or demolished and removed, the Town Board may, by resolution, authorize the Code Enforcement Officer to immediately cause the repair, securing, or demolition of such unsafe sign. The expense of such remedial actions shall be a charge against the land on which the sign is located and shall be assessed, levied, and collected as provided in Subsection "C" above.

G. FENCES AND WALLS.

1. Fences and walls shall not exceed eight (8) feet in height where erected in side or rear yards nor three (3) feet in height when erected within twenty-five (25) feet of the front lot line or highway right-of-way, except wire fencing (cyclone, barbed, American) which may be five (5) feet. In no case shall fences or walls impair vision for safe ingress and egress from that or adjoining properties.
2. All such fences and walls shall conform to the requirements of Section IV, (E) (2), as pertains to corner lots.
3. All such fences and walls shall be measured from the ground level at the base of the fence or wall.

H TOWERS.

1. Standards
 - a. No person shall cause, suffer, or permit the erection and/or maintenance of any satellite antenna, parabolic dish, windmill, tower, energy creating device or other similar equipment upon any lands owned by them within the Town unless in conformity with the provisions herein set forth.
 - b. All towers and antennae shall be located at least the minimum required front yard setback from the front lot line and at least ten (10) feet from the side and rear yard lot lines, or, a distance equal to the height of the tower or antenna, whichever is greater. When measuring required setbacks, all cables, guy wires, or other supports shall constitute a part of the device.
 - c. No tower or antenna erected or maintained within the Town shall exceed seventy-five (75) feet in height, measured from the average ground surface immediately surrounding the site of the device.
 - d. Towers which will be used for energy conversion shall be located so as not to produce a level of noise at any lot line greater than the ambient night time level.

- e. Access to towers shall be limited either by means of a fence six (6) feet high around the tower base with a locking portal or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground.
- f. Certification must be provided by a professional engineer licensed to practice in New York State that the tower design is sufficient to withstand windload Requirements for structures as established by the New York State Building Construction Code.

2. Approval Procedure

Except for personal recreational use, no tower or satellite antenna shall be constructed or erected until approved by the Planning Board, in accordance with the procedures outlined in Section VII herein, and a building permit obtained.

I. SANITARY DISPOSAL

No person shall undertake to construct any new building or structure in the Town of Schaghticoke without first meeting the requirements for a system, or facilities, for the separate disposal of water-borne sewage, domestic or trade wastes in accordance with applicable regulations of the Town, the Rensselaer County Department of Health and other governmental authorities.

J. EXCAVATION AS PART OF SITE PREPARATION

Nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to site development or construction of a building for which preliminary approval of the Planning Board or a building permit has been issued, or to move such material from one part of a premises to another part of the same premises, when such excavation or removal is clearly incidental to the approved building construction/site development and necessary for improving the property for a use permitted in the district in which it is located. The owner/developer is responsible for employing Best Management Practices for stormwater and erosion control and securing any necessary permits prior to excavation. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered with full within the first growing season following the start of such operation.

K. DEVELOPMENT NEAR STREAMS AND WETLANDS

~~In order to preserve the open character along major streams for environmental and ecological reasons, all development proposed within one hundred (100) feet of the normal streambank of the Hudson River, the Hoosic River, the Tomhannock Creek, and the Deepkill Creek, or within one hundred (100) feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation, shall be prohibited.~~

In order to preserve the open character along major streams for environmental and ecological reasons, all development proposed within one hundred (100) feet of the normal streambank of the Hudson River, the Hoosic River, the Tomhannock Creek, and the Deepkill Creek, within one hundred (100) feet of any stream shown on the map entitled “Flood Fringe Overlay Zone” or within one hundred (100) feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation, shall be prohibited.

L. DEVELOPMENT WITHIN FLOOD FRINGE OVERLAY (FF-O) DISTRICT

All development within the Flood Fringe Overlay District, as mapped by the Federal Emergency Management Agency (FEMA), shall be subject to the special use permit review procedure as provided by Section VI of this Local Law, including those special design requirements stated in Part C therein.

M. TIMBER

1. Purpose

The purpose of this Section is to promote the health and safety of the residents of the Town by protecting the natural environment as affected by timber harvesting. The Town recognizes that the timber resource in the Town is of significant value and will be harvested. The Town also recognizes that if timber harvesting practices are poorly carried out, they can result in significant environmental damage to the land and to adjacent lands and waters. Thus, the following requirements are intended to regulate those harvesting activities that most readily render environmental damage, such as stream crossings and the location of landings, haul roads and skid trails; to require reclamation efforts that can limit subsequent environmental damage, particularly to control soil erosion and sediment laden run-off; and to utilize professional forest management expertise in the preparation and evaluation of timber harvest plans.

2. Standards

- a. It is hereby required that a timber harvesting permit be obtained from the Planning Board by any one desiring to harvest timber in quantities greater than 50 standard cords of wood or 4,400 cubic feet of wood or 25,000 board feet of timber as measured by international ¼” log rule in any one year in the Town. Such permit shall be applied for jointly by the property owner and the logger.
- b. The timber harvesting operation shall be conducted in accordance with an approved timber harvesting plan. The timber harvesting plan shall be developed by a New York State Cooperating Consultant Forester, or a

professional forester with active membership in the Society of American Foresters or the Association of Consulting Foresters. Such plan shall contain a minimum of the following information:

- 1) Location and topography of land to be harvested (scale to 1:9600 or larger).
 - 2) Location of haul roads, skid trails, landings, and staging areas.
 - 3) Identification of all streams or watercourses and wetlands.
 - 4) Limits of harvesting operation and buffer zones to be provided near streams, property boundaries, and public highways.
 - 5) Description of harvesting activity; i.e. clearcutting, diameter limit cutting, thinning, selection cutting.
 - 6) Erosion and sediment control plan.
 - 7) Reclamation plan.
- c. Permits, where appropriate, will be secured by the landowner prior to any clearing for access to the public highway, stream crossing, or wetlands disturbance.

APPROVAL PROCEDURE

- a. No commercial timber harvesting shall be undertaken, until granted a Special Permit, as approved by the Planning Board, in accordance with procedures Outlined in Section VI – D herein.
- b. An application for a Special Use Permit for timber harvesting shall include:
 - 1) An application fee of fifty dollars (\$50).
 - 2) A timber harvesting plan developed and certified by a professional forester as described herein.
 - 3) The dates between which such harvesting activity will occur.
 - 4) Copies of all applications for permits submitted to other agencies.
- c. Upon receipt of an application for a timber harvesting permit, the Planning Board may at its option submit the application to the Department of Environmental Conservation and request a review of the application by a Department of Environmental Conservation forester or to a professional forester selected by the Planning Board for review. In a case where the timber is being harvested for the purpose of clearing the land for conversion to agricultural use, building purposes, or for utility line right-of-way, the Planning Board may in its discretion waive this review requirement.

N. AGRICULTURE.

1. The growing of field and garden crops, vineyards, orchards and nurseries; the keeping of livestock on a lot of ten (10) acres or more; and the keeping of fowl on a lot of five (5) acres or more shall be permitted as allowed by the Schedule of Use Regulations provided:

- a. Building structures for such uses shall be located not less than one hundred fifty (150) feet from any side or rear lot line and shall additionally conform to the front yard requirements for the principal building.
- b. The storage of manure or other dust or odor-producing substances shall be adequately screened from the view of adjacent properties and located not less than one hundred fifty (150) feet from any lot line.

2. Roadside stand, as permitted in RA, R, and R40 districts, provided that:

- a. Such stand shall not exceed one thousand (1000) square feet in total area;
- b. Such stand shall be located not less than fifty (50) feet from any street line; and
- c. Such stand shall be solely used for display and sale of agricultural products.

3. Outdoor agricultural storage for crates or other packing containers and farm Equipment as permitted in RA and R40 districts, provided that:

- a. Such crates or other packing containers are for use with agricultural products grown principally on the premises; and
- b. No such storage is located within any required yard.

4. Horses and ponies, for private use, may be kept on properties within the R and RA Districts in accordance with the following schedule:

<u>MAX # HORSES</u>	<u>MIN. # ACRES</u>
1	1.5
2	3
3	5
4	7
5 or greater	10

- a. Fences and/or buffer areas shall be located in such a manner to adjacent properties so as not to cause a nuisance.

5. Buffering of Existing Farms from New Uses. New residential development located adjacent to existing farmlands or active farm structures including, but not limited to barns and silo's, shall provide for its own buffer zone and/or landscaping for

screening when necessary. The width of buffer shall be determined based on topography and proposed site layout but shall not be less than 50'.

O. SWIMMING POOLS

Any swimming pool, as defined in Section XIII of this Local Law, with a surface area in excess of one hundred (100) square feet, shall be subject to the following requirements:

1. Such pool shall be enclosed on all sides by a security fence or wall, not less than four (4) feet in height, with a locking gate.

P. HOME OCCUPATIONS

In general, (1) this Local Law shall not prevent individuals from conducting a business, trade, or profession in their homes or residences, provided that they meet the standards set forth by these regulations, (2) the activity shall not alter the primary use of the premises as a residence and shall be limited to its utilization for other than residential uses to fifty (50) percent of the square footage of the first floor of the primary residence, or up to one hundred (100) percent of the basement area of the residence, if such exists, and if the Home Occupation is to be exclusively carried out within the basement area, (3) An accessory structure may be substituted for the basement and must comply with all other provisions of this section, (4) No traffic shall be generated in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the home occupation shall be met on-site and not in the required front yard, and (5) there shall be no external signage of such use except for one sign not exceeding two (2) square feet in area.

1. Home occupation includes all home occupations conducted solely on-premises and within the principal structure (see item (2) above) or where general office activities of the business are conducted with the residence and the service related activities are conducted primarily off-premises. The following standards shall be met by the owners and all persons engaged in such activities:
 - a. Only the occupants of the residence and a maximum of two (2) non-resident employees or assistants may conduct the activity.
 - b. In no way shall the appearance of the structure be altered nor shall the activity within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of noises, odor, or vibration.
 - c. Display of products outside the residence shall not be allowed.
 - d. The retail sale of goods or articles not produced on the premises is permitted

if they are incidental to the service provided by the home occupation.

- e. Materials and equipment used in connection with the business shall be screened from view and stored in such a way that they do not pose a nuisance to adjacent property owners.

Q. OIL AND GAS EXPLORATION

Use of land for oil and gas removal and by-products shall be conducted in conformance with all required standards for issuance of a permit by the New York State Department of Environmental Conservation and other applicable County and Town regulations.

R. MOBILE HOME NEIGHBORHOOD DISTRICT

1. **INTENT AND PURPOSE.** It is the purpose of the Mobile Home Neighborhood District to provide for planned mobile home residential developments, including related recreational and other service facilities. It is further the purpose to establish sites at appropriate locations within the Town in relation to existing and potential development areas and in relation to other uses and community facilities.

It is the intent of the Mobile Home Neighborhood District to offer the maximum amount of freedom possible in the design of mobile home neighborhoods; to encourage the development of comprehensive bicycle and pedestrian circulation networks; to provide the amenities normally associated with planned residential areas; and to promote the health, safety, and general welfare of the present and future inhabitants of the Town.

The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the application is, in fact, compatible with surrounding land uses, and, in itself, shall not be sufficient to require the granting of any application.

Mobile homes shall be an allowed use only in the Mobile Home Neighborhood District except as allowed in Section T of this Law regarding residential mobile homes and in Section S of this Law with regard to non-residential mobile homes.

2. **DEFINITIONS.**

- a. Construction Standards: Mobile Homes shall be constructed in accordance with regulations set forth in the compilation of Federal Regulations (CFR), Title 24 – Housing and Urban Development, Chapter II - Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 328 - Mobile Home Construction and Safety Standards;
- b. Data Plate: every mobile home shall bear a data plate affixed in the manufacturing facility bearing not less than the following information:

- 1) The statement: “This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at The time of manufacture”.
- 2) Reference to the structural zone and wind zone for which the home is designed.

MOBILE HOME STAND: A durable surface located on a mobile home lot which is to be used for the placement, and capable of supporting, a mobile home.

MOBILE HOME LOT: An areas of land within a Mobile Home Neighborhood designed and designated for the siting of one mobile Home.

DOUBLE WIDE MOBILE HOME: A mobile home constructed on two separate chassis, designed to be joined together at the point of use to form a single dwelling.

MOBILE HOME NEIGHBORHOOD: A residential development intended to accommodate mobile homes as defined herein and including various facilities for the service of the residents.

LICENSEE: Any person, firm, trust, partnership, association, or Corporation licensed to operate and maintain a Mobile Home Neighborhood under the provisions of this Local Law.

3. **MOBILE HOME NEIGHBORHOOD LOCATIONAL REQUIREMENTS.**

a. Establishment of a mobile Home Neighborhood District.

The Town Board may, after Planning Board review, public notice and hearing, approve, establish, describe, and designate a mobile Home Neighborhood District on the Official Zoning Map of the Town pursuant to Sections of the Town Zoning Law and amendment thereto.

- 1) The same procedure as per section XIII of the Town Local Zoning Law shall be followed in the application for an approval of a Mobile Home Neighborhood District.

b. Locational Requirements.

- 1) Zoning Districts: A Mobile Home Neighborhood (MHN) District may be established only within a Residential/Agricultural District and only if the objectives and provisions of this Local Law are satisfied as determined by the Planning Board and Town

Board and the MHN is consistent with the spirit and intent of the Town Comprehensive Plan.

- 2) Community Facilities: Essential community facilities and services for the Mobile Home Neighborhood, such as employment, shopping, schools, recreation areas, and police and fire protection shall be reasonably accessible.
- 3) Impact to Surrounding Properties: The uses will not be detrimental to present and potential surrounding uses.
- 4) Streets: Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed development and in the vicinity of the proposed districts.
- 5) Utilities: Existing and proposed utility services are adequate for the proposed development and such utility services shall be placed underground.
- 6) Development Phasing: Each phase of the proposed development, as it is proposed to be completed shall contain the required parking, landscape plantings, recreational areas, and utility services necessary for creating and sustaining a desirable and stable environment.
- 7) Non-residential Development: Any non-residential use within a Mobile Home Neighborhood Development shall be subordinate to the residential use of and character of the development.
- 8) Highway Frontage: A Mobile Home Neighborhood shall have frontage on and direct access to a New York State Highway or Rensselaer County Highway.
- 9) Proximity to existing MHN's: No Mobile Home Neighborhood shall be located within two (2) miles, measured in a straight line, of an existing Mobile Home Neighborhood.

4. **REQUIRED LICENSE FOR A MOBILE HOME NEIGHBORHOOD.**

a. Annual License Requirement.

It shall be unlawful within the Town of Schaghticoke for any person or persons to construct or operate a Mobile Home Neighborhood without first securing a license annually from the Town Board, and complying with the regulations of this Local Zoning Law.

b. License Fees.

The application for annual license or the renewal thereof shall be filed with the Town Clerk and shall be accompanied by a non-refundable fee as established by the Town Board. The fee for an annual license shall be the same as that for an initial application. Thereafter, each mobile home shall be assessed on the tax rolls of the Town of Schaghticoke against the owner (s) of the Mobile Home Neighborhood Development. In addition, an inspection fee as determined by the Town Board will be charged for the purpose of compliance with this local law or any other applicable local law or ordinance prior to the issuance of a Certificate of Occupancy. Such fee shall apply to the initial installation of units or the replacement of such units as determined by the Building Inspector.

c. Application Requirements.

The application for a license or renewal thereof shall be made on forms prescribed by the Town Board and shall include the name and address of the fee owner of the property. In the event the fee is vested on some person other than the applicant, the application shall be submitted together with a duly verified statement by the owner in fee that the applicant is authorized by him/her to construct and maintain the Mobile Home Neighborhood. Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.

5. **APPLICATION PROCEDURE FOR A LICENSE.**

a. Application Preparation/Content.

Application for a Mobile Home Neighborhood license shall be accompanied by the required sets of plans prepared by a licensed Landscape Architect, Architect, Engineer, or Land Surveyor, Shall be filed with the Town Clerk, and shall include the following:

- 1) The name and address of the applicant.
- 2) The location and legal description of the Mobile Home Neighborhood site.
- 3) A complete plan of the Mobile Home Neighborhood in conformity with the requirements of this Local Law.
- 4) Plans and specifications of all improvements and facilities constructed or to be constructed within the Mobile Home Neighborhood.

- 5) Such further information as may be requested by the Town Board to enable a proper determination if the proposed Mobile Home Neighborhood will comply with all legal requirements.

b. Application Filing.

A complete application packet shall consist of three (3) copies of the application, ten (10) sets of plans and specifications, and ten (10) copies of a completed long Environmental Assessment Form (EAF). The Town Clerk shall retain one (1) set of documents on file and deliver the remaining sets to the Town Planning Board. The Planning Board shall review said application with regard to the provisions of this Local Law and all other applicable Local, County, State, and Federal Laws, Ordinances and Statutes. Upon completion of their review, the Planning Board will deliver the application, together with their findings and recommendations, to the Town Board for review and approval. Upon completion of the Mobile Home Neighborhood in accordance with the approved plans and specifications, the Town Clerk shall issue a license upon order of the Town Board.

c. Application for License Renewal.

Upon application in writing to the Town Clerk by a licensee for renewal of a license and upon payment of the annual license fee, the Town Board shall order an inspection of the Mobile Home Neighborhood by the Building Inspector and if it is still in compliance with the applicable Local Laws and Ordinances, a report shall be made to the Town Board. By order of the Town Board, the Town Clerk shall issue a certificate renewing such license for another year.

6. **MOBILE HOME NEIGHBORHOOD DESIGN STANDARDS.**

a. Site Development.

- 1) Site Size. Mobile Home Neighborhoods shall be located on well drained sites comprising a minimum of five (5) acres and a maximum of fifteen (15) acres;
- 2) Grading. The site shall be properly graded to ensure rapid drainage so that no portion of the site is subject to predictable sudden flooding or erosion;
- 3) Minimum Frontage. Where no secondary access is provided, the site shall have a minimum of three hundred (300) feet of frontage on the highway providing primary access to the site.
- 4) Minimum Setbacks. No mobile home, mobile home accessory building, Mobile Home Neighborhood office or service

building shall be located within:

- a) Fifty (50) feet from any property line encompassing the site unless otherwise determined by the Planning Board that a lesser distance would be sufficient due to topography, existing screening or other circumstance to ensure adequate screening and buffering of adjacent properties.
- 5) Rent/Ownership. The land lying wholly within the perimeter boundaries of any proposed or established Mobile Home Neighborhood District shall be held in single ownership and shall consist of separately dimensioned, individual lots, collectively held in single ownership and used entirely for rental purposes only.

b. Density/Lot Standards.

- 1) Lot Density/Lot Setbacks. Each Mobile Home Neighborhood shall be designed to accommodate separately identified mobile home lots as follows:

Minimum Lot Area

Single wide unit.....7260 s.f.
Double wide unit.....9700 s.f.

Maximum # Units/Gross Acre.....4.5

Minimum Setback From Public

Highway Right-of-Way Line.....100 ft

Minimum Setback from Non-

Dedicated Street Centerline.....75 ft

Minimum Unit Separation.....50 ft

Minimum Mobile Home Lot Width..70 ft

- 2) Mobile homes installed in the Town of Schaghticoke shall be installed in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code Act.
 - a) Each mobile home lot shall be improved to provide an adequate stand for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation, and overturning.

- 1) There shall be a longitudinal gradient of zero percent (0%) to a maximum of five percent (5%) and an adequate crown or cross gradient for surface drainage;
- 2) Each mobile home stand shall consist of a foundation designed for support of a mobile home so as to prevent heaving, shifting, and uneven settling in the form of either –
 - a) a full concrete pad, 4" x 12' x 70' for single-wide and a 4" x 24' x 70' for double-wide units and shall include concrete piers or equivalent stand extending a minimum of forty-eight (48) inches below ground level at a minimum of every eight (8) feet for the entire length of the pad; or,
 - b) a perimeter foundation of a minimum of eight (8) inches in width and forty-eight (48) inches in depth, with overall dimensions of 12' x 70' for single-wide and 24' x 70' for double-wide units; or,
 - c) lateral runners of a minimum 16" x 48" x 24' for double-wide units, spaced every eight (8) feet for the entire length of seventy (70) feet.
- 3) The structural frame of each mobile home shall be attached to the foundation in not less than six (6) places, located in accordance with good engineering practice. Each attaching device shall be capable of withstanding a tension force of at least twenty-eight hundred (2800) pounds and shall be designed so as to secure the mobile home against uplift, sliding, rotation, and overturning.
- 4) Each mobile home foundation shall be enclosed by a skirt securely fastened and extending from the outside wall of the mobile home. The skirt shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding extreme weather conditions over extended periods of time. No skirt shall be required where a perimeter

foundation fully encloses the area between the unit and the ground level. Such skirt shall be installed within ten (10) days after placement of the mobile home on the foundation.

- 3) Mobile Home Lot Access. All designated lots within a Mobile Home Neighborhood shall have direct access to streets designed to Town of Schaghticoke specifications and be approved by the Town Superintendent of Highways.
- 4) Refuse Receptacles. Adequate refuse receptacles with tight fitting covers shall be provided for each mobile home unit. These receptacles shall be kept in sanitary condition and emptied weekly by the Licensee or his/her agent.
- 5) Required Parking. Two (2) off-street parking spaces shall be provided for each mobile home, with one (1) additional space for each four (4) mobile homes. Every parking space shall be at least ten (10) feet in width and twenty (20) feet in length, and have adequate provision for maneuvering and for passage to and from streets.
- 6) Mobile Home Neighborhood Caretaker. Each Mobile Home Neighborhood Licensee shall provide on-site at all times a duly authorized attendant or caretaker who shall be in charge at all times in keeping the Mobile Home Neighborhood and its facilities and equipment in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the Licensee, for the violation of any provision of this law to which the Licensee is subject.
- 7) Mobile Home Unit Expansion. Any mobile home unit, whether it is a single-wide or partial double-wide unit, may be expanded to a maximum size of twice the original single-wide unit; however,
 - a) The increase must be of a standard mobile home unit expansion type;
 - b) Any expansion must conform to the minimum unit separation;
 - c) Any expansion must receive Site Plan Approval from the Town of Schaghticoke prior to the issuance of a Building Permit for such mobile home unit expansion; and,
 - d) Any single-wide unit proposed for expansion shall have a

minimum lot area equal to that of a double-wide unit as specified herein.

- 8) Open Space/Landscape Plantings. All areas of the site not occupied by buildings, units, parking areas, driveways or walkways shall be maintained as lawn area with landscape plantings of trees and shrubs, or as natural areas as follows:
 - a) All margins along the front, side and rear property lines of the Mobile Home Neighborhood site shall be planted with evergreen or deciduous trees in a mass planting or hedgerow, for the purpose of visual screening and noise abatement. Such plantings shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade, and suitable settings for the mobile home and other facilities as approved by the Town of Schaghticoke;
 - b) The design of individual sites shall take into consideration the natural growth presently on the site and the nature and condition of the terrain as well as the relationship of the site itself with respect to adjoining lands. Screening and/or landscape plantings for such individual sites shall be provided as deemed necessary by the Town of Schaghticoke Planning Board.
- 9) Utilities. Each individual mobile home unit shall be served by municipal central water supply facilities and wastewater treatment facilities as approved by the appropriate State and Municipal agencies and the Rensselaer County Health Department.
 - a) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home lots and buildings within the Neighborhood to meet the requirements of the Neighborhood;
 - b) Each mobile home lot shall be provided with a sewer which shall connect to the mobile home situated on the lot to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in such home. The sewer shall be connected to a public sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects;

- c) Plumbing connections to each mobile home shall comply with all regulations of the New York State Plumbing Code;
 - d) Weatherproof electrical service connections and outlets shall be of a type approved by the New York State Board of Fire Underwriters;
 - e) At least one (1) public telephone or access to the office telephone shall be required.
- 10) Required Storage Space. Storage space for the use of Neighborhood residents, shall be provided within a building in an Amount equal to at least eighty (80) cubic feet for each mobile Home lot in the Mobile Home Neighborhood.
- 11) Required Recreation Area. A recreation area shall be incorporated into the design of the Mobile Home Neighborhood to be a minimum of one thousand (1000) square feet per mobile home unit with appropriate facilities to satisfy the needs of the neighborhood residents.
- a) Such recreation area shall have at least one (1) common area of a minimum of five thousand (5000) square feet and the Town of Schaghticoke may establish such conditions on the ownership, use and maintenance of this area as it deems necessary to assure the preservation of the recreation area
 - b) The Town of Schaghticoke Planning Board shall also have the authority to require the location within any proposed Mobile Home Neighborhood District of a community recreation service building and consistent with such authority may require that such building contain certain designated facilities, including, among them, but not being limited to, laundry facilities, public telephone, recreational facilities, meeting room and rest rooms;
 - c) If the Planning Board finds that due to size, topography or location of the Mobile Home Neighborhood District, land for parks, open spaces, playground or other recreational purposes cannot be properly located therein, or that same are not desirable, the appropriate board shall require prior to approval and filing of the proposed plan that a payment of the Town of Schaghticoke recreation trust fund be made in an amount equal to \$100 per mobile home lot within the Mobile Home Neighborhood District being considered for approval. Such amount shall be paid

to the Town of Schaghticoke at the time that final approval of the plan is made and no such plan shall be finally approved nor filed until such payment has been made.

- 12) Pedestrian. Pedestrian ways shall form a logical, safe, and convenient system of pedestrian access to all project facilities.
- 13) Snow Removal. The Licensee shall be responsible for snow removal from the Mobile Home Neighborhood to the public highway.
- 14) Site Lighting. Street lighting shall be provided at all entrances and exits to the Mobile Home Neighborhood and on all internal streets, intersections, walkways and common areas. Such lighting shall provide an illumination of .6 foot candles to those areas.
- 15) Fire Protection. A Mobile Home Neighborhood shall be provided with suitable and operable fire extinguishers and other fire alarm and protection devices as may be prescribed by the fire district wherein said Mobile Home Neighborhood is located. There shall be clear numbering of mobile homes within the Mobile Home neighborhood with a layout map provided to the fire and disaster coordinator and to ambulance and police agencies. Water supplies should be adequate as determined by the County Fire Coordinator to permit the effective operation of at least two (2) one and one half (1-1/2) inch hose streams on any fire in a Mobile Home Neighborhood, whether the supply is derived from hydrants connected to an underground water supply system or reservoir or a water supply source of not less than sixty thousand (60,000) gallons suitably accessible for fire department drafting operations.

- a) Smoke detectors shall be installed and operable in all mobile homes not so equipped prior to occupancy of such mobile home.

c. Circulation/Access.

- 1) Primary Access. Each Mobile Home Neighborhood shall be accessible from an existing State or County Highway.
- 2) Where a mobile Home Neighborhood has more than twenty-four (24) mobile home units, two (2) points of entry and exit shall be provided, shall be separated by a minimum of two hundred (200) feet, and shall be designed as follows:

- a) Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the Neighborhood, and to minimize friction with the free movement of traffic on a public highway;
 - b) All entrances and exits shall be at right angles to the existing public highway;
 - c) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway;
 - d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.
- 3) Street Standards. Each Neighborhood shall have a street or streets provided with a smooth, hard and dust free surface which shall be durable and well drained under normal use and weather conditions to provide for the convenient accessibility to all mobile home lots and other important facilities within the Neighborhood.
 - a) The street system shall be designed to permit the safe and convenient vehicular circulation with the park;
 - b) Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety;
 - c) Such streets shall be designed and constructed in accordance with the Town of Schaghticoke highway standards.
- 4) Sidewalks. Mobile Home Neighborhoods shall provide sidewalks for both “collector” and “minor” streets.
- 5) Primary Access. Primary access for the entire Mobile Home Neighborhood shall be provided by the one (1) or two (2) points of entry and exit directly to the New York State or Rensselaer County Highway upon which the Mobile Home Neighborhood has frontage.
 - a) Such access shall be so designed as to not direct Mobile Home Neighborhood traffic to use abutting Town Highways, unless otherwise approved by the Town.
 - b) Access to such abutting Town Highways may be permitted for the primary purpose of providing emergency vehicle

access unless otherwise approved by the Town of Schaghticoke.

- 6) Secondary Access. Access connections to improved Town Highways abutting the Mobile Home Neighborhood site are permitted only to those highways currently meeting the Town of Schaghticoke Highway Specifications. The location and design regarding access to a Town Highway shall be determined as a result of the Town's Site Plan Review and Approval procedure and shall be subject to such review and approval by the Planning Board and Town Board of the Town of Schaghticoke.

7. **PERFORMANCE BONDS/MAINTENANCE.**

a. Performance Bonds.

Prior to the issuance of a license, or renewal thereof, for the operation of the Mobile Home Neighborhood, a certificate by the Town Clerk shall be submitted certifying that the applicant has complied with one of the following:

- 1) That all public improvements have been installed to the satisfaction of the Town or any other official or body authorized by law to act in accordance with the requirements as specified herein; or
- 2) That a performance bond or certified check has been posted in a sufficient amount to assure such completion of all required improvements and is available to the Town of Schaghticoke.

b) Maintenance.

It shall be the responsibility of the Licensee, though the on-site caretaker or attendant, to adequately maintain the Mobile Home Neighborhood at all times. If, however, in an emergency situation, it is necessary for the Town of Schaghticoke to perform such maintenance, it shall be performed as authorized by the Town Board and all costs incurred in the performance of such maintenance shall be reimbursed to the Town of Schaghticoke by the Licensee.

8) **MOBILE HOME NEIGHBORHOOD INSPECTION.**

a. On-site Inspection.

Before any Neighborhood commences operation, the Building Inspector

shall make an inspection of the premises to determine that all requirements of the Local Law have been met and issue a Certificate of Occupancy. No uses shall be permitted until such a Certificate has been issued.

9) **REVOCTION OF LICENSE.**

a. Inspection Authorization.

The Town Board shall have the authority to enter and inspect for health, sanitary, and other provisions of this Local Law, any facility licensed hereunder, at any reasonable time.

b. Violations.

If, upon inspection, it is found that the Licensee has violated any provision of this Local Law, the Town Board shall have the authority to suspend such license and order the Mobile Home Neighborhood closed after notice and an opportunity to be heard.

The Licensee shall be notified by the Town Board of the nature of the violation and the Town Board shall set the time by which the violation shall be remedied and the action (s) to be taken if the violation is not corrected.

S. STORAGE ON RESIDENTIAL LOTS

~~Not more than one commercial vehicle in excess of twenty (20) feet in length, nor more than one camping trailer or camper body, nor more than one boat, may be stored outdoors on a lot in a residential district. All such outdoor storage shall occur inconspicuously on that portion of the lot behind the minimum front yard setback and shall not be less than five (5) feet from the nearest lot line.~~

Not more than one commercial vehicle in excess of twenty (20) feet in length, nor more than one camping trailer or camper body, nor more than one boat, may be stored outdoors on a lot in a residential or hamlet district. All such outdoor storage shall occur inconspicuously on that portion of the lot behind the minimum front yard setback and shall not be less than five (5) feet from the nearest lot line.

One export container, no more than forty (40) feet in length may be used for storage as an accessory structure to a principal use on a lot in a residential or hamlet district. The storage container must comply with all applicable setbacks and may not extend into the front yard past the existing structure.

T. REQUIRED SCREENING.

Any enclosed, or unenclosed, commercial or industrial use permitted by this Local Law shall be provided with a fence, screen, and/or landscaping sufficient to obscure objectionable aspects of such use from view from adjoining properties and from public rights-of-way in residential districts.

1. Any use which is not conducted within a completely enclosed building, including but not limited to junk yards, storage yards, lumber and building materials yards, and parking lots, and which use is in, abuts, or is adjacent to a residential district, shall be obscured from view from such residential districts and public rights-of-way in an effective manner.
2. Adequate plans for the installation of required fences, screens and landscaping, shall be reviewed by the Planning Board in accordance with the provisions of Section VII of this Local Law.
3. Any required fences, screens and landscaping, installed in accordance with this Section shall be maintained in good order to achieve the objectives of this Section. Failure to maintain fencing and to replace dead or diseased landscaping shall be considered a chargeable violation of this Local Law.

U. CLUSTER AND CONSERVATION DESIGN DEVELOPMENT

1. ENACTING CLAUSE

- a. The Town Board of the Town of Schaghticoke hereby elects to adopt the provisions of and exercise the powers granted by Section 278 of the Town Law and hereby grants to the Planning Board of the Town of Schaghticoke the full authority set forth thereby.

2. FLEXIBLE SUBDIVISION DESIGN: CLUSTERING AND CONSERVATION SUBDIVISION DESIGN

- a. Purposes
 1. To conserve open land, including those areas containing unique and sensitive natural features such as steep slopes, streams, floodplains, and wetlands, by setting them aside from development.
 2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads and the amount of paving required.
 3. To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
 4. To conserve a variety of resources lands as established in the Town of Schaghticoke Comprehensive Plan.

5. To protect agricultural areas by conserving blocks of land large enough for continued agricultural operations.
 6. To create neighborhoods with direct visual or physical access to open land and that have strong neighborhood identity that is consistent with the rural character of Schaghticoke.
 7. To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.
 8. To conserve elements of the Town's rural character, and to minimize views of new development from existing roads.
- b. Pursuant to the provisions of Section 278 of the Town Law of the State of New York, the purpose of this Article is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands, in order to provide larger areas of open space, both for recreational and conservational purposes and in order to implement objectives of this Local Zoning Law.
 - c. The Planning Board shall require application of a clustering or conservation subdivision design on all contiguous parcels of land that are 20 acres in size or larger and which three or more parcels are proposed to be subdivided, either now or in the future. When two or more parcels are combined, a flexible subdivision shall occur if their combined area is 20 acres or more.
 - d. At least 50% of the land shall be preserved as open space. Preserved open space may be included as a portion of one or more large lots, or may be on a separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), or a non-profit organization provided it is protected from development by a conservation easement or deed restriction. When a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.

3. ESTABLISHMENT OF A FLEXIBLE DEVELOPMENT

- a. As provided in Section 278.2 (a) of the Town Law, if the owner makes written application to avail himself of the provisions of this Article, the Planning Board may use the authority given to it hereunder at the discretion of the Planning Board if, in said Board's judgment, its application would benefit the Town.

b. In addition to requiring use of clustered or conservation subdivision designs as established in 2(b) above, the Planning Board's authority to vary or modify zoning requirements, as limited by Town Law Section 278 and by this Article, may be employed to impose conditions for the approval of any plat by the Planning Board, without regard to whether the owner makes application for same, if the condition is imposed in order to ensure that the plat complies with any of the requirements of this Article, or if the condition is imposed in order to perpetuate the existence of or prevent the despoliation or degradation of environmentally sensitive areas or historic places, whether on or off the site. The Planning Board may require an applicant to submit a flexible subdivision plan if, in the Planning Board's judgment, a proposed conventional subdivision would adversely affect the historic, ecological, agricultural, water resources, scenic or other natural resource value. The Planning Board shall notify the applicant as early as possible in the application process, and shall indicate its reasons for protecting such open space through this method. The review procedures and requirements for a flexible subdivision are detailed in the Town of Schaghticoke Subdivision Law.

c. In so applying this Article it shall be determined by the Planning Board:

- 1) that such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in close proximity;
- 2) that the proposed development creates a residential environment that is in conformity with the objectives of this Article and of the Town of Schaghticoke Comprehensive Plan;
- 3) that the application of this procedure shall result in a permitted number of building lots and/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 area and density requirements of the zoning requirements of this Zoning Law as applicable to the district or districts in which such land is situated and conforming to all other applicable requirements;
- 4) that the development would be in harmonious agreement with adjacent residential developments, if any exist, and where providing an alternative type or architectural style of housing, would benefit the Town; and
- 5) that the development proposal guarantees permanent retention of open space areas and ensures the care and maintenance of same.

d. In approving a plat, in accordance with the provisions of this Article, the

dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth by the Town Board, in detached, semi-detached, or attached structures.

- e. Where the applicant can demonstrate that the characteristics of his holdings meet the objectives of this Article, the Planning Board may consider parcels of less acreage.
- f. Development standards for a conservation subdivision design shall follow requirements of the Subdivision law.

4. STANDARDS

a. DENSITY

- 1) In determining the density for a Cluster or Conservation Subdivision Development, the Planning Board shall first determine the area for which such density calculation shall be made.
- 2) The calculation of the area shall not include easements, existing parks, existing streets or otherwise dedicated land; water areas in excess of five percent (5%) of the minimum gross acreage; lands designated on the official map for public purposes; or land undesirable by reason of topography, drainage or adverse subsoil conditions. At least 50% of the acreage shall be preserved as open space land. Determination of the maximum number of permitted dwelling units on any given property shall be based upon the required density as per Section IV (H) of this ordinance.
- 3) As stated herein, the overall density established by the Planning Board shall be no greater than would normally be achieved under the standard subdivision development procedure.
- 4) Average Minimum Lot Area: The **average** minimum lot area shall be 40,000 square feet.

b. OPEN SPACE

- 1) The application of this procedure shall result in the preservation of land on the plat in its natural state for passive recreational, open space, agricultural, archaeological or historical resources. Examples of lands with conservation value include view corridors, agricultural land, areas of mature forest, ridgelines and hillsides visible from public areas, wetlands, water bodies, and stream corridors. The Planning Board, as a condition of plat approval, may establish such requirements on the ownership, use and maintenance of such lands as it deems necessary to

assure that preservation of such lands for their intended purposes. The details as to use and ownership shall be recorded by the owner as required by the Town. Such requirements shall be approved by the Town Board prior to Final Approval and filing of the Plat.

- 2) All conserved lands shall be permanently restricted from future subdivision and development. The open space created by the use of the provisions of this Article must be clearly labeled on the subdivision plat as to its use and the rights of the owners in the subdivision as well as whether it is to be dedicated ultimately to the Town or other governmental body, or to an approved private or conservation corporation or to a homeowners' association or otherwise under conditions meeting with the Planning Board approval. Such open space is to be preserved in perpetuity and the Planning Board may require an open space easement running to the Town as a condition of approval.
- 3) If said lands are to be offered for dedication to the Town, the Town Board may require that such conditions shall be approved by the Town Board before said plan shall be approved for filing.
- 4) Home Owners' Association
 - (a) If the open space or an open space easement therein is not to be dedicated to the Town, or other governmental authority, or to an approved private conservation corporation, the applicant must either simultaneously with the filing of the map create a property owners' association or neighborhood corporation embracing all property owners within the cluster subdivision and providing for adequate contributions for maintenance of said open space or otherwise satisfy the Planning Board with regard to the maintenance of said open space.
 - (b) If a homeowners' association is selected by the Planning Board as the method of maintenance of the open spaces to be preserved, the following must be adhered to:
 - (1) The property owners' association must be set up before the lots are sold.
 - (2) Membership must be mandatory for each lot buyer, and any successive buyer, or each lot created must be legally required by duly filed covenants and restrictions to pay to the property owners' association a yearly fee to be used for maintenance of the open space.
 - (3) The open restrictions must be in perpetuity, not just for a

given period of years.

- (4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
- (5) Property owners must pay their pro rata share of the cost and the assessment levied by the association can become a lien on the property.
- (6) The association must be able to adjust the assessment to meet changed needs.
- (7) The applicant shall make a conditional offer of dedication binding upon the property owners' association for all open space to be conveyed to the association, such offer to be accepted by the Town, should it so choose, upon the failure of the property owners' association to take title to the open space from the applicant or other current owner, or upon dissolution of the association at any future time.

c. USES FOR OPEN SPACE

- 1) The Planning Board may approve uses for open space, and these uses will be clearly indicated on the final map.
 - (a) The Planning Board may approve recreational uses such as wooded park areas, bridle paths, hiking trails, etc.
 - (b) The Planning Board may approve conservational uses such as open woodland, wetlands, slopes, escarpments, or farm fields.
 - (c) The Planning Board may approve cultural aspects, such as historic places and buildings, archaeological sites, parks, and such open spaces which will assure that each of the above cultural aspects are adequately protected in the public interest.
 - (d) Areas for active recreation which are to contain substantial improvements, impervious surfaces and other alteration from their natural state shall not constitute open space hereunder.
 - (e) Agricultural and horticultural uses (as allowed and defined in this law.)

- (f) Water supply and sewage disposal systems and stormwater detention areas designed, landscaped, and available for uses as part of the conservation lands.
- (g) Rights-of-way, easements for drainage, access, sewer or water lines or other public purposes.

D. INTERSECTIONS AND ACCESS

New intersections with existing public roads shall be minimized.

E. YARD REGULATIONS AND SETBACKS

The builder or developer is urged to consider variations in the principal building position and orientation. Lot sizes and setbacks can be varied from the standards included in Section 4. For such subdivisions in the R and RA districts minimum front yards from the right-of-way of existing town, county or state roads shall be 15- feet.

F. DESIGN STANDARDS

- 1) House lots shall not encroach upon primary conservation areas and shall respect secondary conservation areas, as detailed in the Town of Schaghticoke Subdivision Law.
- 2) Views of house lots from exterior roads and abutting properties shall be minimized by use of changes in topography, existing vegetation, or additional landscaping.
- 3) House lots shall generally be accessed from interior streets rather than from roads bordering the parcel.
- 4) 50% of the lots shall directly abut or face conservation land.

G. USES PERMITTED ON CONSERVED LANDS

The following uses are permitted on conserved land areas within the subdivision:

- 1) Open land left in its natural state (woodland, fallow field, managed meadow, wetland, etc.).
- 2) Agricultural uses.

H. MAINTENANCE

- 1) Unless otherwise agreed to by the Board, the cost and responsibility of maintaining common facilities and conserved lands shall be borne by the property owner, homeowners association, or conservation association.

2) The applicant shall, at the time of preliminary plan submission, provide a plan for maintenance of the conserved lands which shall detail ownership, establish maintenance responsibilities for the various kinds of open space, and a funding plan to cover costs of maintenance and other potential capital improvements.

3) In the event that the organization established to maintain the conserved lands or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Town of Schaghticoke may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended. The Town may take corrective action and upon thirty days written notice to the owner, enter the premises for necessary maintenance and the costs of such action may be charged to the property owner, homeowners association, other organization or individual property owners. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Town with appropriate County agencies.

V. NON-RESIDENCE MOBILE HOME

A mobile home may be used for non-residential purposes in one of the following ways:

1. A mobile home may be located on the site of a construction project, survey project or other similar work project if used solely as a field office or work or tool house in conjunction with such project, provided such mobile home is removed from said site within a reasonable time after the completion of such project; OR
2. A mobile home may be used for business/office purposes, such as a bank branch, credit union office, professional office, etc., on a temporary basis while awaiting construction of a permanent facility, where such use is permitted, and as approved by the Planning Board in accordance with Section VII herein.

W. RESIDENTIAL MOBILE HOME

A mobile home may be permitted by the Town Board to be located outside of the mobile home park and used for residential purposes in one of the following ways:

1. A permit may be granted for a period not to exceed six (6) months if the applicant intends to construct, or reconstruct, on such land a dwelling house for his own occupancy or his employees' occupancy, and the mobile home may be occupied as an interim dwelling for that period and while construction is ongoing. Said mobile home shall be removed from the premises upon expiration of the permit. The permit may be extended for an additional six (6) months upon good cause being shown and a showing that construction has not been completed.
2. A permit may be granted to the owner of a farm, allowing the placement of not more than two (2) mobile homes to be occupied only by full-time farm workers and their families employed by the owner and provided that, herein, the mobile homes are located on a lot of at least one hundred by one hundred fifty (100 x 150) feet and are no closer than forty (40) feet to the farmhouse and any farm building, and provided that the lot is free from drainage problems and fenced off from farm animals.
3. Application for permit. The application for such mobile home permit shall be filed with the Town Clerk and shall state or include:
 - a. The name of the applicant and his permanent address, and the property owner if different from the mobile home owner;
 - b. The date of manufacture, registration number and dimensions of such mobile home;
 - c. Evidence that such mobile home, if manufactured after January 15, 1974, bears the seal required by the State of New York and an equivalent

acceptable to the State of New York;

- d. The street and number where such mobile home is to be located;
 - e. Evidence that the provision of Section IV and Section V.P.6.b.2 of this Law have been or will be complied with;
 - f. The original or a true copy of the deed to the land in question;
 - g. A plan drawn to scale of not smaller than one (1) inch equals twenty feet. This plan must show the boundaries of the land, the location or plan for the proposed water supply and sewage disposal systems and the location of adjacent properties, streets and structures;
 - h. A fee in the amount of twenty-five dollars (\$25).
4. Application procedure.
- a. The Town Clerk shall transmit the application to the Town Building Inspector. Upon receipt, the Building Inspector shall review the application's compliance with the provisions of this section and the requirements of the Rensselaer County Department of Health. The Building Inspector shall then transmit the application, along with his written findings to the Town Board.
 - b. The Town Board shall receive the application and the findings of the Town Building Inspector and by resolution indicate its approval or disapproval.
 - c. The Town Clerk shall notify the applicant of the decision of the Town Board, and the Town Building Inspector shall issue a mobile home permit to the applicant if the application was approved.
 - d. If the application was disapproved, the applicant shall have a right to appear Before the Town Board for a hearing.

5. Certificate of Occupancy.

Before any mobile home for which a permit has been issued in accordance with this Section hereof shall be occupied, a certificate of occupancy shall be issued by the Building Inspector, certifying that the mobile home has been installed on the lot and provided with services as specified by this section. A temporary certificate may be issued by the Building Inspector to allow occupancy while improvements such as skirting or landscaping are being made. Such temporary certificate shall be valid for a maximum of six (6) months, after which time any remaining noncompliance shall constitute a violation of this section.

X. Development within the Groundwater Concern Overlay District

1. For a proposed residential development consisting of a single parcel, the existing density requirement for the underlying zone shall apply (in number of dwellings per acre). Any proposed subdivision taking place within the Overlay Zone shall have a density of one dwelling per five (5) acres.
2. In any major subdivision that is a subdivision of 5 lots or more, the Planning Board shall determine the need for an aquifer pump test. Information used for that determination may be the Ground Water Assessment Report and other information that has been gathered by the Planning Board. Minor and one lot subdivisions, after discretionary review by the Planning Board may require a pump test as follows.
 - a. The pump test must be conducted by a registered well driller, registered pump installer, engineer or hydrogeologist as directed by the Planning Board;
 - b. The pump test shall be conducted at a constant pumping rate equivalent to the estimated amount of groundwater that will be withdrawn from the entire proposed subdivision over a twenty four (24) hour period;
 - c. The pump test shall be conducted for a maximum of twenty four (24) hours;
 - d. During the pump test, the groundwater level in neighboring wells must be monitored by a licensed engineer or practicing hydrogeologist. If a bedrock aquifer is being tested, neighboring wells are those existing wells within 500 feet of the proposed subdivision boundary. If an overburden aquifer is being tested, neighboring wells are those existing wells that are within 1,000 feet of the subdivision boundary. If a large number of such wells exist, then a number of representative wells will be selected by the professional engineer or practicing hydrogeologist;
 - e. The aquifer pump test well must yield a groundwater volume as described in Item b. for the length of the test without lowering the neighboring wells' groundwater level by more than 15% of the total water column in the well during the twenty-four hour (24) pump test period; and
 - f. Following the end of the pump test, recovering groundwater levels must be measured in the test well and neighboring wells. Groundwater levels in the test well and neighboring must recover to within 90% of the original groundwater level within twenty-four (24) hours.

Y. Development within the Steep Slope Overlay District

Purpose

1) The protection of steep slopes is a matter of concern to the entire town. Conservational practices in this critical area are needed in order to protect the public health, safety and general welfare. Experience has demonstrated that effective protection of steep slopes requires preservation whenever possible and careful review and regulation, including stringent mitigating measures, of disturbance of soils and vegetation on steep slopes in those cases where they have to be disturbed. The inadequately controlled disturbance of certain steep slopes can lead to the failure of slopes; erosion and the mass movement of earth; damage to natural environment patterns, man-made structures and personal safety; and the degradation of aesthetics.

2). It is the purpose of this section to protect the public health, safety and welfare of the residents of the Town of Schaghticoke by regulating site preparation and construction activities, including site disturbance, excavation, filling, grading, land stripping and tree clearing so as to prevent problems related to erosion, sedimentation and/or drainage. In relation to this purpose, this chapter is intended to:

- (a) Preserve the quality of the natural environment from the adverse effects of site preparation and construction, such as:
 - (1) Pollution of watercourses from silt or other materials.
 - (2) Unnecessary destruction of trees and other vegetation.
 - (3) Excessive exposure of soil to erosion.
 - (4) Unnecessary modification of natural topography or unique geological features.
 - (5) Failure to restore sites to an attractive natural condition.
- (b) Protect people and property from the adverse effects that can be associated with improper site preparation and/or construction, such as:
 - (1) Increased runoff, erosion and sediment.
 - (2) Increased slope instability and hazards from landslides and slumping.
- (c) Ensure that site preparation and construction are consistent with the Comprehensive Plan of the Town of Schaghticoke.

3. All development applications within the Steep Slope Overlay shall require Site Plan approval from the Planning Board. Development on slopes greater than twenty-five percent (25%) shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope. Development on slopes greater than fifteen percent (15%) shall meet the disturbance standards of Section U (4-6), below.

4. Natural vegetation shall be retained and protected wherever possible. Permanent vegetation shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation and related structures shall be installed as soon as practical or

within the time specified in the building permit or approved site plan. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Planning Board is mature enough to control the soil erosion satisfactorily and to survive severe weather conditions.

5. The smallest practical area of land shall be exposed for the shortest practical time during development.

6. Disturbance standards. All development within the Steep Slope Overlay District shall demonstrate compliance with the performance standards set forth below. Alternatively, an applicant may provide a plan certified by a licensed professional engineer to be at least as protective of the public health, safety and welfare as the standards set forth herein.

- (a) Excavation, filling, grading and stripping shall be permitted to be undertaken only in such locations and in such a manner as to minimize the potential of erosion and sediment and the threat to the health, safety and welfare of neighboring property owners and the general public.
- (b) Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as many of these features as feasible.
- (c) The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparation and construction.
- (d) Disturbance shall be minimized to the maximum extent practicable. The smallest practical area of land shall be exposed by site preparation at any given time. Additionally, the exposure of areas by site preparation shall be kept to the shortest practical period of time prior to the construction of structures or improvements or the restoration of the exposed areas to an attractive natural condition.
- (e) Mulching or temporary vegetation suitable to the site shall be used where necessary in order to protect areas exposed by site preparation, and permanent vegetation which is well adapted to the site shall be installed as soon as practical.
- (f) Where slopes are to be revegetated in areas exposed by site preparation, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sediment may result.
- (g) Site preparation and construction shall not adversely affect the free flow of water by encroaching on, blocking or restricting watercourses.

- (h) All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material.
- (i) Fill material shall be compacted sufficiently in order to prevent problems of erosion and, where the material is to support structures, it shall be compacted to a minimum of ninety percent (90%) of modified proctor with proper moisture control.
- (j) All topsoil which is excavated from a site shall be stockpiled and used for the restoration of the site, and such stockpiles, where necessary, shall be seeded or otherwise treated in order to minimize the effects of erosion. Topsoil is not to be removed or sold from the site unless restoration has been completed.
- (k) Prior to, during and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability and adverse effects on neighboring property owners.
- (l) The natural drainage system shall generally be preserved in preference to modifications of this system, excepting where such modifications are necessary in order to reduce levels of erosion and sediment and adverse effects on neighboring property owners.
- (m) All drainage systems shall be designed to handle adequately anticipated flows, both within the site and from the entire upstream drainage basin, so as to achieve no net increase in peak rate of runoff from the site.
- (n) Sufficient grades and drainage facilities shall be provided in order to prevent the ponding of water, unless such ponding is proposed within site plans, in which event there shall be sufficient water flow to maintain proposed water levels and in order to avoid stagnation.
- (o) There shall be provided, where necessary in order to minimize erosion and sediment, such measures as benches, berms, terraces and diversions and sediment, debris and retention basins.
- (p) Drainage systems, plantings and other erosion or sediment control devices shall be maintained as frequently as necessary in order to provide adequate protection against erosion and sediment and to ensure that the free flow of water is not obstructed by the accumulation of silt, debris or other material or by structural damage.

- (q) The Planning Board shall establish a safe building setback from steep slopes that have soil and slope characteristics that increase the risk of mass wasting, including those slopes that are underlain with clay.
8. The following are exemptions:
- (a) Agricultural land management practices and construction of agricultural structures.
 - (b) Single-family residences or their accessory buildings on lots of two (2) acres or more that disturb an area less than one-half (1/2) acre.
 - (c) Clearing or grading activities that are subject exclusively to state approval and enforcement under state law and regulations.
 - (d) Activities that disturb less than five thousand (5,000) square feet of surface area.

Z. Development within the Historic District.

1. It is the intent of the Town of Schaghticoke to preserve historic sites, areas, buildings and landmarks located in the Town and it is declared essential to the general welfare of the community to safeguard the heritage of the Town by preserving sites and districts which reflect its cultural, social, economic, political and architectural history. Further, it is also essential to protect buildings, structures, and areas in town that are recognized as historic sites and landmarks. As such, the Historic District Overlay is hereby established.
2. No structure shall be constructed, altered, repaired, moved or demolished in the Historic District unless such action complies with the requirements hereinafter set forth.
3. Duties and Powers of the Town Planning Board - All plans for the construction, alteration, repair, or demolition of structures in the historic districts shall first be submitted to the Town Planning Board which shall have the power to pass upon such plans before a permit for such work shall be granted; provided, however, that the Planning Board shall pass only on such exterior features of a structure and shall not consider interior arrangements. In reviewing the plans, the Board shall give consideration to:
 - a. The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area.
 - b. Consistency with existing conditions in the historic district and the general appropriateness of the exterior design arrangement, texture and materials proposed to be used.
 - c. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the historic district.

d. Texture and materials and their relation to similar features of other properties in the historic district.

e. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the front facade, roof shape, and the rhythm of spacing of properties on streets, including setback.

f. The importance of historic, architectural or other features to the significance of the property.

4. In addition to the foregoing general standards, the following specific standards shall apply in appropriate cases:

a. Alterations, repairs and additions to existing buildings shall either be made consistent with the spirit of their architectural style or shall alter the structure to an appropriate appearance consistent with the architectural styles of historic value existing in the Historic district.

b. New construction shall be consistent with the architectural style of historic value in the Historic district, except in such instances of new construction as the Planning Board shall determine to be inappropriate because structures adjoining the site of such proposed new construction are of a significantly dissimilar period of architecture, in which cases the Planning Board may approve such periods of architecture as it deems proper for the site and the best interests of the Historic district.

c. Demolition shall be prohibited of any structure within the Historic district if the Planning Board shall determine it to be of a particular architectural or historical significance.

d. Moving of structure of historic and architectural value may be permitted by the Planning Board as an alternative to demolition.

e. The Building and Zoning Administrator shall not issue a building permit until a certificate of approval of the plans has been issued by the Planning Board.

5. Procedure for Review of Plan - Application for a building permit to construct, alter, repair, move or demolish any structure in the Historic district shall be made to the Code Enforcement Officer. The application shall state that the property is in the Historic district and plans shall be submitted showing the structure in question and also giving its relation to adjacent structures.

a. Upon the filing of such application, the Code Enforcement Officer shall immediately notify the Planning Board and shall transmit to such Board the

application and any supporting plans or documents. The Planning Board shall consider such application and shall approve or disapprove the plans and if it shall approve such plans, shall issue a certificate of approval and transmit the same to the Code Enforcement Officer.

b. If the Planning Board disapproves the plans, it shall so notify the Code Enforcement Officer who shall thereupon deny the application for a permit.

c. Nothing in this Law shall be construed to prevent ordinary maintenance or repair of any structure within the Historic district.

6. Advisory Board - The Planning Board of the Town of Berne is hereby authorized and empowered to retain, as an historical Advisory Board, architects and other such experts as they deem desirable or necessary, to advise on specific applications.

7. Any person aggrieved by a decision of the Planning Board or Code Enforcement Officer acting under this subsection shall have the right to appeal to the Zoning Board of Appeals for a variance as provided by the Zoning Ordinance or general law.

SECTION VI. Special Use Permits

All special permit uses specified in the “Use Schedule” in Section III of this Local Law shall be subject to review and approval by the Planning Board in accordance with the standards and procedures included in this Section. In all cases where this Local Law requires such Special Use Permit authorization by the Planning Board, no building permit shall be issued by the Building Inspector except upon authorization of and in full conformity with plans approved by the Planning Board.

- A. GENERAL STANDARDS. In approving or disapproving any special permit use, the Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. The Planning Board may attach such reasonable conditions and safeguards as it deems appropriate as part of its approval. The Board shall take into account the special conditions set forth in this section for any use requiring Planning Board authorization in addition to the following general objectives:
1. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to the existing or future streets providing access, shall be in harmony with the orderly development of the District.
 2. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 3. All proposed traffic access ways shall be adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and meet similar safety considerations.
 4. Adequate off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles of persons connected with or visiting the use and the interior circulation system shall be adequate to provide safe accessibility to all required off-street parking and loading.
 5. All parking and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the maximum extent possible.
 6. The character and appearance of the proposed use, building, structures, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights, than would be the operations of any permitted use and shall not adversely affect the general

welfare of the inhabitants of the Town of Schaghticoke.

7. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.
8. The Planning Board is hereby authorized and provided the discretion to modify or waive the application material and review requirements for small projects that in its judgement are unlikely to generate significant traffic and do not have the likelihood of posing adverse impacts to the neighborhood or environment. Any such modification or waiver shall be made by resolution of the Planning Board detailing the grounds for the modification or waiver and shall be approved by a supermajority vote of the Planning Board. Any materials deemed necessary by the Planning board for compliance with the State Environmental Quality Review Act shall be provided by an applicant. This provision shall not permit the Planning Board to vary the dimensional, use, or other requirements that are the typical province of the Zoning Board of Appeals.

B. **SPECIFIC STANDARDS.** In addition to the general standards stated above, the following specific standards shall be complied with for the special permit uses cited below:

1. Public, denominational or private schools, including playgrounds and accessory uses required for their operation, provided:
 - a. No building should be erected closer than fifty (50) feet to any street or lot line; and
 - b. Maximum building coverage should not exceed twenty (20) percent of lot area.
2. Public parks, libraries and museums, provided:
 - a. No building should be erected closer than fifty (50) feet to any street or lot line; and
 - b. Maximum building coverage should not exceed twenty (20) percent of lot area.
3. Places of worship, including related parish houses, seminaries, convents, dormitories and other accessory uses, provided:
 - a. No building should be erected closer than fifty (50) feet to any street or lot line; and
 - b. Maximum building coverage should not exceed twenty (20) percent of lot area.

4. Veterinarian's hospital and animal hospital, provided:
 - a. There shall be no outside kennels or similar animal housing; and
 - b. Structures for such uses shall be located no nearer than fifty (50) feet to any lot line.
5. Conversion of an existing one-family dwelling to a two-family dwelling, provided that:
 - a. Such two-family dwelling contains at least six hundred (600) square feet of floor area for the first family plus six hundred (600) square feet of similar area for the second family.
 - b. Such two-family dwelling maintains the residential façade consistent with the neighborhood.
6. Hospitals and sanitariums for general medical care, nursing homes and senior citizen housing, provided:
 - a. The maximum building coverage shall not exceed twenty (20) percent of lot area.
7. Membership clubs providing public and private recreational facilities, other than for a one or two family dwelling, including playgrounds, swimming facilities, golf courses, and hunting and fishing clubs with accessory building for administration, operation and clubhouse purposes, provided:
 - a. Minimum lot area shall be five (5) acres;
 - b. No building or swimming pool shall be located closer than fifty (50) feet to any street or lot line;
 - c. Plans for all public address systems and lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board; and
 - d. Parking shall not be permitted within any yard setback.
8. Summer colonies, including cabins and cottages available for rent during The non-winter months, provided:
 - a. Minimum lot area shall be twenty (20) acres;
 - b. Such cabins or cottages shall be designed for one (1) family only,

with not more than four (4) such dwelling units permitted per gross acre;

- c. All such dwelling units shall be serviced by a water supply and sewage disposal system approved by the New York State Department of Health or the Rensselaer County Department of Health; and
- d. No building or recreational facility shall be located less than one hundred (100) feet from any lot line and shall be effectively screened from adjacent properties.

9. Camps, including Type I and Type II camps, may be permitted in those districts where designated, provided:

- a. In any district where permitted, Type I and Type II camps, shall provide a perimeter buffer, for the purposes of establishing visual screening and noise abatement, of deciduous and evergreen plantings, or the maintenance of existing natural vegetation if such exists, or of a distance not less than two hundred fifty (250) feet from any street or property line.
- b. Primary access for any Type I or Type II camp shall be constructed to Town Highway Standards for a minimum distance of two hundred fifty (250) feet from any street or highway for the purpose of providing emergency vehicular access.
- c. The area of the site, parcel, or tract of land to be used shall contain not less than twenty (20) acres and shall have frontage of not less than two hundred (200) feet abutting a public highway.
- d. The density of sites for individual use of any Type I use within such a camp shall not exceed an average of ten (10) sites per acre of the developed portion of the entire camp area, inclusive of service roads, toilet facilities, and service buildings. Each site for individual use, excluding parking spaces, shall provide a minimum of fifteen hundred (1500) square feet of area and shall provide a minimum of one vehicle parking space which will not interfere with the convenient and safe movement of vehicular and pedestrian traffic.
- e. All camps shall provide on-site at all times during its operation a duly authorized attendant or caretaker who shall be in charge at all times of keeping the camp in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the Owner, for the violation of any provisions of this Law to which the Owner is subject.
- f. There shall be not more than four (4) cottages per gross

acre.

- g. Appropriate facilities shall be provided for water supply and disposal of waste.
- 10. Mining and excavation, including the loading, hauling and/or processing of sand, gravel, soil, shale, topsoil, or any aggregate material, provided:
 - a. There shall be compliance with all applicable provisions of the New York State Mined Land Reclamation Law and other Federal regulations;
 - b. A restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed is submitted;
 - c. Buffered areas shall be consistent with the setback distances within the permitted zone. Where property lines separate mining uses, no setback distances shall be required.
- 11. Storage of construction and related vehicles, provided that such storage or parking shall not be closer than the minimum building setback line within the zoned district.
- 12. Convenience Food Store may be permitted in those districts where designated, provided:
 - a. Required parking shall be on the basis of one (1) space for each 150 square feet of gross building area;
 - b. Where fuel sales are an integral part of the use, it shall be so designed and located as to not conflict with the vehicular access, circulation and parking required for the primary food store use. In addition, standards required for Motor Vehicle Service Station, as provided herein, shall apply;
 - c. Above ground fuel storage tanks, such as propane, shall be so located as to be isolated from any customer parking or maneuvering space, or any accessway, and shall be protected and screened from public view.
 - d. Underground fuel storage tanks shall be so located that when being filled by tank truck, access to the site and parking areas will not be blocked;
 - e. A delivery area shall be provided and so located as to avoid conflict with customer parking areas, and shall be designed in accordance with standards required in Section V - B-3 "Required Off-Street Loading".

13. Row or attached housing, consisting of a series of attached one-family dwelling units, provided:
 - a. The site proposed for such row or attached housing shall contain at least sixty thousand (60,000) square feet;
 - b. No group shall have more than eight (8) units and the minimum average distance between any two (2) groups shall be fifty (50) feet;
 - c. There shall be located within the site a suitable recreation area containing at least six hundred (600) square feet of area for each one-family dwelling unit, with the ownership and maintenance of such recreation area acceptable to the Town Planning Board;
 - d. The site shall be served by public water and sewer;
and
 - e. The following lot and building standards shall apply:

minimum lot area (per unit)	5,500 s.f.
minimum lot width (per unit)	24 feet
minimum lot depth	150 feet
minimum floor area per dwelling unit	600 s.f.
minimum off-street parking spaces per dwelling unit	2-1/2 spaces
minimum distance between building and any property line	50 feet
maximum building height	3.0 stories or 45 feet
maximum percentage of parcel covered by structures	20%
 - f. Entrance and exit driveways shall have an unrestricted width of not less than twelve (12) feet nor more than twenty-four (24) feet, nor be located closer than ten (10) feet to any lot line;
14. Multi-family apartments, provided:
 - a. The site proposed for such multi-family apartments shall be consistent with the Area Bulk Regulations or paragraph 14 f. of this section, whichever the more stringent. There shall be no more than twelve (12) living units per building.
 - b. The minimum distance between principal buildings shall be sixty (60) feet, between a principal building and a permitted accessory building shall be twenty (20) feet, and between any principal building and the nearest

property line shall be fifty (50) feet;

- c. Where more than one multi-family unit is proposed on an unsubdivided parcel of property, the proposed project shall be reviewed as a Planned Development under Section VIII of this Law.
- d. There shall be on the same lot or within the same development a suitable recreation area containing at least six hundred (600) square feet of area for each dwelling unit, with the ownership and maintenance of such recreation area acceptable to the Town Planning Board;
- e. The site shall be served with public water and sewer; and
- f. The following lot and building standards shall apply:

minimum lot area (per unit)	7,500 s.f.
minimum lot depth	150 feet
minimum lot width	150 feet
minimum livable floor area per dwelling unit	600 s.f.
minimum off-street parking spaces per dwelling unit	2.5 spaces
minimum percentage of parcel covered by structures	20 percent

- g. Entrance and exit driveways shall have an unrestricted width of not less than twelve (12) feet nor more than twenty-four (24) feet, nor be located closer than ten (10) feet to any lot line.

15. Motor vehicle service station/Motor vehicle repair, provided:

- a. The minimum lot area shall be fifteen thousand (15,000) feet and the minimum frontage shall be one hundred (100) feet;
- b. No building shall be erected closer than twenty (20) feet to any street or lot line;
- c. Entrance and exit driveways shall have an unrestricted width of not less than twelve (12) feet nor more than twenty-four (24) feet, nor be located closer than ten (10) feet to any lot line;
- d. No entrance or exit driveway or parking space shall be located so to require the backing of any vehicle into a public right-of-way;
- e. All vehicle lifts, dismantled automobiles, parts or supplies, good, materials, refuse, garbage, or debris shall be located within a building

enclosed on all sides;

- f. All services or repair of motor vehicles shall be conducted in a building enclosed on all sides, not to be construed as meaning that the doors to any repair shop must be kept closed at all times;
- g. Gasoline or flammable oils in bulk shall be stored fully underground, not closer than ten (10) feet to any street line or thirty-five (35) feet to any lot line;
- h. No gasoline pumps shall be located closer than twenty-five (25) feet to any street line;
- i. There shall be at least two (2) parking spaces for each service bay plus one (1) space for each employee, with no parking area closer than ten (10) feet to any lot line;
- j. The overnight, outdoor parking of vehicles shall be prohibited except when such vehicle is properly registered and is undergoing active repair; and
- k. No such establishment shall be located within a distance of two hundred (200) feet of any school, church, hospital, or other place of assembly designed for occupancy by more than fifty (50) persons, said distance to be measured in a straight line between the nearest point of each of the lots or premises, regardless of the zoning district in which either premises is located.
- l. The Planning Board may limit the number of gas pumps to ensure consistency in scale between the gas filling station and adjacent land uses.
- m. There shall be no glare of gas canopy islands outside the boundaries of the site.
- n. All gas canopy lights shall be recessed with no bulb, lens or globes extending below the casing or canopy ceiling.
- o. No signs shall be allowed on the canopy mansard, fascia or roof area covering gas dispensers.
- p. There shall be no amplified sound audible at property lines.
- q. All pumps, pump islands, tanks, piping and canopies shall be removed when fuel dispensing activity has been inactive for a period of 12 months.

- r. Construction, maintenance and inspection of any gas filling station shall use all applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps.
- s. The Town may require a bond to cover costs related to possible future cleanup of underground tanks, contaminated soils, or site restoration.
- t. The Planning Board may require a traffic impact analysis.
- u. Applicants shall prepare and maintain on site, an acceptable Spill Prevention, Control and Countermeasure Plan prepared under the supervision of a professional licensed engineer.
- v. Employees shall be up-to-date in Spill Prevention training.
- w. Owners of underground storage facilities for oil or gas shall maintain financial responsibility for costs associated with the cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000.
- x. The Zoning Board of Appeals may limit hours of operation or limit acceptable hours of fuel delivery as part of a special use permit condition.
- y. Applicants shall evaluate site conditions and provide information, analysis, and evidence that the proposed gasoline filling station will not degrade the quality of groundwater. Mitigation measures including, but not limited to use of steel above ground tanks encased in concrete, shall be implemented to reduce or eliminate risks to groundwater.

16. Hotel or motel, provided:

- a. Minimum lot area for the zoning district in which the hotel or motel is proposed to be located shall be increased by fifteen hundred (1500) square feet for each guest room provided.

17. Shopping centers, provided:

- a. Establishments comprising said shopping center shall provide for the sale of goods and services and may include one (1) or more of the following uses:
 - (1) Stores and shops for the conduct of any business;

- (2) Fully enclosed service establishments, not including car washes, gas stations, and automobile body repair and painting shops;
- (3) Fully enclosed restaurant and drinking establishments;
- (4) Fully enclosed bowling alleys and theaters, banks, with or without drive-in facilities;
- (5) Business, professional and governmental offices;
- (6) Dry-cleaning establishments utilizing not more than one hundred (100) horsepower and not over one hundred (100) pounds per square inch of steam pressure; and
- (7) Motor vehicle sales establishment with accessory facilities, in a building completely detached from any other. Said motor vehicle sales establishments shall conform to all applicable standards set forth in Section VI (B) 15 herein relating to motor vehicle service stations, and the following additional requirements:
 - a) the maximum lot coverage shall be thirty-five (35) percent;
 - b) no commercial sales of gasoline shall be permitted, nor shall any pump be located in a front or side yard; and
 - c) the sale of used cars shall be conducted only as accessory to new car sales.

- b. Minimum lot area shall be eighty thousand (80,000) square feet, except that for every motor vehicle sales establishment added to any other use, the area of the lot shall be increased by eighty thousand (80,000) square feet;

- (1) No building shall be erected closer than fifty (50) feet to any street or property line;
- (2) No parking area shall be located closer than twenty (20) feet to any street line, or ten (10) feet to any lot line (See Minimum Parking Requirements—Section V (B) (2); and
- (3) There shall be no unenclosed storage of goods, materials, equipment, refuse, garbage or debris.

18. Bus, truck or railroad freight terminal, provided:
 - a. No storage or repair of vehicles shall be located less than five hundred (500) feet from the boundary of a residential district;
 - b. All shipping and receiving docks shall have adequate access to and from a public street without using said street for maneuvering purposes, with such docks located not less than five hundred (500) feet from the boundary of a residential district;
19. Motor vehicle and other junkyards, provided:
 - a. the entire activity shall be contained within an eight (8) foot solid wall or fence uniform in finish and appearance and in a state of public and continuing maintenance;
 - b. the entire activity shall be set back at least one hundred (100) feet from any public right-of-way or lot line;
 - c. all storage shall occur so that materials do not exceed the height of such wall or fence and are not visible from either the public right-of-way or boundaries of the lot;
 - d. no burning or incineration of materials shall take place;
 - e. the entire site shall be kept in such condition as not to attract or harbor pests, rodents or other vermin; and
 - f. there shall be no display or storage of materials outside the wall or fence.
 - g. all stored motor vehicles and other junkyards shall be setback 100' from streams, wetlands, and steep slopes.
20. Kennels, provided:
 - e. Purpose - In order to promote the general welfare of the Town, new kennels shall be allowed only by Special Use Permit. The application shall include a diagram to scale which displays the kennel building(s) and all other inhabited dwellings in the vicinity, information on buffers, number and type of animals, and any other information deemed appropriate.
 - f. Conditions to be considered when hearing a request for a kennel Special Use Permit:
 - 1) Closeness to adjacent properties (minimum of 500 feet).

- 2) Maximum number of animals to be maintained.
 - 3) Effect on character of neighborhood.
 - 4) Existing or proposed natural or man-made buffers.
 - g. Pre-existing Kennels – Kennels in existence prior to the passage of this local law shall be subject to and conform to the standards of any existing local law in force at the time the kennel was established. However, if an existing kennel becomes a nuisance, any of the above conditions can be imposed after public hearing.
20. Roadside stand, provided:
- a. Location of roadside stand is within a RA, R or R40 zoning district.
 - b. Safe ingress and egress and off-street parking shall be provided.
21. Nursery Schools, Day Care Centers, provided:
- a. Such use shall comply with all licensing, site area and dimensional requirements established for such establishments by the New York State Department of Social Services.
 - b. If located in a Residential District, the minimum lot area and all yard setbacks for such use shall be equal to twice those required in the district.
 - c. If located in a Residential District, such use shall have frontage on a collector road as defined in this Local Law.
 - d. A buffer area of at least twenty (20) feet in width, containing evergreen landscaping and/or fencing as, in the judgment of the Board, will be adequate to screen the use from the neighboring residential area, may be required along all adjoining residential properties, except where driveway access is required.
22. Religious/Educational Use, provided:
- a. A church, synagogue or similar place of worship, parish house, parochial school, college or private school giving regular instruction at least five (5) days a week for seven (7) months or more in each year and having a curriculum approved by the Board of Regents or the New York State Education Department (but not including a dormitory or a school or college giving special or limited instruction, e.g. such as business, art,

music, dancing, automobile or riding school) is permitted as a Special Use Permit exception by the Planning board provided it finds:

- 1) It is a bona fide religious or educational use.
 - 2) The proposed structure meets all of the State requirements for a place of public assembly including fire prevention codes.
 - 3) In Residential Districts, such use shall be located on a lot which contains at least twice the minimum lot size required for one-family detached dwellings in the district in which it is located and which meets all other dimensional requirements of said district.
- b. In addition to the requirements for site plan submission, a floor plan of any existing or proposed building or structure shall be submitted along with the maximum occupancy requested for each building, structure or facility.
 - c. The Planning Board, insofar as practicable, may impose such restrictions and regulations which would avoid or minimize traffic hazards, impairment of the use, enjoyment, or value of property in the surrounding area, as well as deterioration of the appearance of the surrounding area.

23. Automatic Vehicle Washer, provided:

Automatic Vehicle Washers. These vehicle washers are those where the vehicle is either slowly driven through or pulled through by automatic chain mechanism; a vehicle wash in which the vehicle operator does not perform any of the washing function other than to drive the vehicle where necessary.

- a. The vehicle washing facility and customary uses or operations associated with the facility shall not be located closer than one hundred (100) feet from a Residential District, or from a residential use.
- b. All vehicle washing facilities shall be soundproofed, arranged, and the operations shall be so conducted that the noise emanating from the facility, as measured from any point on adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial or industrial uses as measured at the same point on said adjacent property.
- c. The comparison between noise emanating from the vehicle washing facility and from the street and commercial or industrial uses shall be made at the same time of the day. The decibel readings shall be the power averages from several readings.

- d. All vehicle washing facilities shall be connected to a public sewer or shall utilize an on-site wastewater recycling facility as may be approved by the Rensselaer County Department of Health or other governmental agency having jurisdiction.
- e. All vehicle washing facilities shall be within a completely enclosable building which shall be designed in keeping with the facades of adjacent land uses.
- f. Ingress and egress from the facilities shall not impede normal traffic flow or ingress or egress from adjacent properties.

24. Vehicle Washes, provided:

- a. Coin-operated vehicle washes. These washes are those where the vehicle operator washes the vehicle by using a hose which is geared to a coin-operated, timed mechanism.
 - 1) Vehicle washing facility or customary uses or operations associated with the facility shall be located not closer than one hundred (100) feet from any Residential district or from a residential use.
 - 2) All vehicle washing facilities shall be within a completely enclosable building which shall be designed in keeping with the facades of adjacent land uses.
 - 3) Vacuuming facilities may be outside the building shall meet the respective setback requirements. Such area may be buffered or screened as deemed necessary.
 - 4) Off-street parking shall be provided on the property in the ratio of not less than four (4) parking spaces entering each washing stall; and three (3) parking spaces at the exit from each stall and one space per employee. Each space shall meet the minimum requirements for a parking space as required in Section V herein.
 - 5) All off-street parking area shall be hard-surfaces and dust-free.
 - 6) Any lights used to illuminate the area shall be directed away from adjacent properties.
 - 7) The use shall close operations at a reasonable hour as determined by the Planning Board.
 - 8) All vehicle wash facilities shall be connected to a public sewer or shall utilize an on-site wastewater recycling facility as may be

approved by the Rensselaer County Department of Health or other governmental agency having jurisdiction.

25. Accessory Apartments, provided:

- a. An Accessory Apartment may be established within an existing single family dwelling or as apart of construction of a new residence in those districts where permitted by Special Use Permit, if the Planning Board finds that:
 - 1) The dwelling is owner occupied;
 - 2) The Accessory Apartment is self-contained, may be attached or detached to the principal building, with separate cooking, sleeping, and sanitary facilities for use by the occupant (s);
 - 3) The dwelling has only one (1) exterior front entrance, with any additional entrances being located at the side or rear of the structure;
 - 4) The Accessory Apartment is subordinate to the principal residence and contains no greater than 40% of the total “habitable” space of the structure. “Habitable space” shall be that as defined in Article 3, Part 711.1 of the NYS Uniform Fire Prevention and Building code as amended;
 - 5) The conversion of any existing residence or construction of a new residence to accommodate an Accessory Apartment as defined herein, and in Section XIII, is limited to one (1) Accessory Apartment per principal residence;
 - 6) Each principal residence and Accessory Apartment is, at the time of conversion, on a single lot with lot area setbacks of no less than the minimum specified in Section IV, AREA & BULK REGULATIONS;

NOTE: The above lot area requirement is a minimum; however, due to site conditions (soils, topography, etc.), additional lot area may be required by the Rensselaer County Health Department.
 - 7) Parking, as required for an Accessory Apartment/principal residence is a minimum of (2) spaces per dwelling unit on-site and are designed and located to be convenient without encroaching on any yard/setback area;

- 8) Approval has been granted by the Rensselaer County Health Department for any required on-site sanitary or water supply system;
- b. Approval by the Planning Board shall be required for any Accessory Apartment in accordance with the provisions on this Section and Section VII – SITE PLAN REVIEW.
- c. Approval Procedure:
 - 1) Applications for approval of an Accessory Apartment shall be in accordance with Section VI Special Use Permits, and shall be filed with the Planning Board. In considering such application, the Planning Board shall consider the impact that any accessory apartment may have on the adjoining properties and general neighborhood where the Accessory Apartment is proposed to be located.
- d. Change of Ownership:
 - 1) Within 60 days after the transfer of title to premises for which a Special Permit has been granted for an Accessory Apartment, the Building Inspector shall inspect the premises to determine that the dwelling is owner-occupied.
 - 2) If an owner or occupant refuses permission to the Building Inspector to inspect the dwelling and the additional apartment contained therein, or if the Building Inspector determines of the Special Permit have not been complied with, the Building Inspector shall serve a written notice upon the owner or occupant setting forth the conditions found to be in violation and allowing a reasonable time for the owner or occupant to comply. If the owner or occupant fails to comply within the time allowed, or if the Building Inspector shall determine that the dwelling is not the actual residence of the owner, the Planning Board shall revoke the special use permit and direct that the additional apartment unit created pursuant to this sub-section be vacated. The dwelling shall thereafter to used as a single-family detached dwelling.

26. Two-family dwellings, provided that:

- a. Such two-family dwelling contains at least six hundred (600) square feet of floor area for each dwelling unit;
- b. Such two-family dwelling meets the requirements for lot area and setbacks, as stated in Section IV- AREA AND BULK REGULATIONS;

- c. Parking, as required two (2) spaces per dwelling unit, is on-site and is designed and located as to be convenient without encroaching on any yard/setback areas;
- d. Approval has been granted by the Rensselaer County Health Department for any required on-site sanitary or water supply system;
- e. The proposed two-family dwelling is architecturally consistent with existing residences in the general location of the dwelling with respect to, but not limited to, the following:
 - 1) Building façade design;
 - 2) Single front entrance;
 - 3) Garage design and location; and
 - 4) Landscape plantings;

27. Motor Vehicle Sale Establishments- New and Used

Motor Vehicle Sales Establishments, with accessory facilities, may be permitted in the HC – Highway Commercial District provided that:

- a. The maximum lot coverage for structures shall be no greater than thirty-five (35) percent;
- b. No commercial sale of gasoline shall be permitted, nor shall any pump be located in a front or side yard;
- c. No structure shall be erected closer than fifty (50) feet to any street or property line;
- d. No parking or vehicle display shall be closer than thirty (30) feet to a front property line or street line, or closer than ten (10) feet to a side or rear property line;
- e. Approval is granted in accordance with the provisions SECTION VI – Special Use Permits and SECTION VII – SITE PLAN REVIEW.

28. Rural Business, provided:

- a. the minimum lot size shall be no less than three (3) acres;

- b. maximum building area devoted to the business, including storage, shall not exceed 1800 s.f.;
- c. outside displays shall not exceed twenty percent (20%) of devoted building area;
- d. no outside storage will be allowed;
- e. approval is granted in accordance with the provisions of SECTION VI – SPECIAL USE PERMITS and SECTION VII – SITE PLAN REVIEW;

29. Solar Siting

a. Purpose and Intent. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. This Article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this law is intended to apply to free standing, ground mounted, or pole mounted solar energy system installations based upon certain placement.

b. Applicability

i. The requirements of this Article shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.

ii. Solar energy systems for which a valid building permit has been properly issued or for which installation has commenced prior to the effective date of this Article shall not be required to meet the requirements of this Article except in accordance with §§5(D), (E) and (F).

iii. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards as stated in the State Building Code and Town Code.

iv. Solar collectors, unless part of a Solar Farm or Solar Power Plant, shall be permitted only to provide power for use by owners, lessees, tenants,

residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net-metering” arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

a. Permit Required

- i. No Small Scale Solar energy system or device shall be installed or operated in the Town except in compliance with this section.
- ii. The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Town Board may by resolution establish and amend from time to time.
- iii. Rooftop and Building-Mounted Solar Collectors. Rooftop and building mounted solar collectors are permitted in all zoning districts in the Town subject to the following conditions:
 - (1) Building permits shall be required for installation of all rooftop and building-mounted solar collectors, except, building permit shall not be required for Flush-Mounted Photovoltaic Panels.
 - (2) Rooftop and building-mounted solar collectors shall not exceed the maximum allowed height of the principal use in any zoning district.
 - (3) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop and Building Mounted Solar Collectors. Additionally, installations shall provide for adequate access and spacing in order to:
 - (i) Ensure access to the roof;
 - (ii) Provide pathways to specific areas of the roof;
 - (iii) Provide for smoke ventilation opportunity areas;
 - (iv) Provide emergency egress from the roof; and
 - (v) To further ensure firefighter access and firefighting considerations, there shall be no solar collectors placed as follows:
 - (A) within two feet of the peak of the roof;
 - (B) along the perimeter of the roof there shall be a space at least two feet wide as measured from the exterior wall (i.e. any eave or overhang is not included in the two foot distance); and

- (C) within three feet of any chimney, vent or similar structure that is connected to combustion equipment or a combustion source (i.e. fireplace, furnace, hot water heater, dryer and the like).
- (4) Exceptions to the requirements in subsection (3) above may be requested where access, pathway or ventilation requirements are reduced due to:
 - (i) Unique site specific limitations;
 - (ii) Alternative access opportunities (as from adjoining roofs)
 - (iii) Ground level access to the roof area in question;
 - (iv) Other adequate ventilation opportunities when approved by the Code Enforcement Officer;
 - (v) Adequate ventilation opportunities afforded by panel set back from other rooftop equipment;
 - (vi) Automatic ventilation device; or
 - (vii) New technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.
- iv. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system.
- v. Ground-Mounted and Free Standing Solar Collectors: Ground-mounted and free standing solar collectors are permitted as accessory structures in all zoning districts subject to the following conditions:
 - (1) Building permits are required for the installation of all ground-mounted solar collectors.
 - (2) The location of the solar collector meets all applicable setback requirements for accessory structures in the zoning district in which it is located.
 - (3) The height of the solar collector and any mounts shall not exceed 12 feet when oriented at maximum tilt.
 - (4) Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
 - (5) Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

- (6) The area beneath ground mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted Lot Building Coverage and Lot Surface Coverage Requirements for the applicable District, notwithstanding that the collectors are not “buildings”.
- vi. Solar-Thermal Systems: Solar-thermal systems are permitted in all zoning districts subject to the following condition:
- (1) Building permits are required for the installation of all solar-thermal systems.
- (2) Ground mounted and free standing solar-thermal systems shall be subject to the same requirements set forth in subsection D above for Ground Mounted and Free Standing Solar Collectors.
- vii. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:
1. Weight load;
 2. Wind resistance; and
 3. Ingress or egress in the event of fire or other emergency.
- viii. Solar Collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- b. **Safety**
- i. All solar collector installations must be performed by a qualified solar installer.
 - ii. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
 - iii. Any connection to the public utility grid must be inspected by the appropriate public utility.
 - iv. Solar energy systems shall be maintained in good working order.
 - v. Rooftop and building-mounted solar collectors shall meet New York’s Uniform Fire Prevention and Building Code standards.

- vi. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Town and other applicable laws and regulations.
- vii. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the system owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.
- c. **Solar Farms and Solar Power Plants.** Solar Farms and Solar Power Plants shall only be permitted in the RA District after the issuance of a Special Use Permit and Site Plan Review by the Planning Board.
- d. **Performance Standards.** The Planning Board in reviewing an application for a Solar Farm or Solar Power Plant shall observe the following performance standards as part of its review:
 - i. Solar farms and solar power plants shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 8 ½ feet.
 - ii. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.
 - iii. Solar Farm and solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
 - iv. Appropriate landscaping and/or screening materials shall be required to screen the solar farm or solar power plant and accessory structures from neighboring residences.
 - v. The average height of the solar panel arrays shall not exceed twelve (12) feet.
 - vi. Solar Farm and Solar Power Plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
 - vii. On-site power lines shall, to the maximum extent practicable, be placed underground.
 - viii. The following requirements shall be met for decommissioning:
 - (1) Every solar farm or solar power plant and any associated accessory structures, shall be dismantled and removed from the site and the site shall be reclaimed

when it has been inoperative or abandoned for 12 consecutive months. The applicant shall be required to post a bond or other suitable undertaking or security and shall provide a written contract with the Town agreeing to be fully responsible for removal and reclamation and indemnifying the Town for the costs of removal and reclamation as a condition of approval. Such bond or cash value undertaking shall be no less than 150% of the current cost of removal and reclamation and shall be renewed every five years and the amount adjusted by the Planning Board.

C. STANDARDS WITHIN THE FLOOD FRINGE OVERLAY DISTRICT. All uses proposed within the Flood Fringe Overlay District (FF-O) shall be considered Special Use Permits subjects to review by the Planning Board for compliance with the Flood Plain Management Ordinance adopted by the Town of Schaghticoke which is made a part hereof by reference.

D. APPLICATION PROCEDURE. The Planning Board shall act on all Special Use Permits in accordance with the procedure specified herein:

1. Application and Fee. All applications made to the Planning Board shall be in writing, on forms prescribed by the Board and shall be accompanied by a fee as established by the Town Board. Each such application shall be accompanied by a sketch site plan as required in Section VII (A) of this Local Law.

In its review, the Planning Board may seek the advice and recommendations of a designated professional planner and initiate coordination, as appropriate, with the Rensselaer County Bureau of Planning, the county Health Department, the school district, the local fire district, and any other body or agency which the Planning Board deems desirable or necessary. The Planning Board's reasonable expenses for planning, engineering, or other professional consultation shall be chargeable to, and reimbursable by, the applicant.

The Planning Board is hereby authorized and provided the discretion to modify or waive the application material and review requirements for small projects that in its judgement are unlikely to generate significant traffic and do not have the likelihood of posing adverse impacts to the neighborhood or environment. Any such modification or waiver shall be made by resolution of the Planning Board detailing the grounds for the modification or waiver and shall be approved by a supermajority vote of the Planning Board. Any materials deemed necessary by the Planning board for compliance with the State Environmental Quality Review Act shall be provided by an applicant. This provision shall not permit the Planning Board to vary the dimensional, use, or other requirements that are the typical province of the Zoning Board of Appeals.

2. Public hearing and decision on special use permits. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received on any matter referred to it under this section. Public notice of the hearing

shall be printed in a newspaper of general circulation at least five days prior to the date thereof. The Planning Board shall decide upon the application within 62 days after the hearing. The time which the Board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Board on the application shall be filed within 5 business days after such decision is rendered and a copy thereof mailed to the applicant.

3. Notice to applicant and county planning board. At least 10 days before a public hearing, the Planning Board shall mail notices thereof to the applicant and to the Rensselaer County Planning Board as required by section 239-m of the general municipal law.
4. The Board of Appeals shall comply with the provisions of SEQRA.
5. Where a special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of the Code Enforcement Officer.
6. Conditions. The Planning Board is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of a special use permit, any such conditions must be met in connection with the issuance of permits by the Code Enforcement Officer.
7. Voting Requirements. Every motion or resolution of the Planning Board shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board. Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of sections 239-m and 239-n of the general municipal law shall apply.
8. Relief from Decisions
Any person or persons, jointly or severally aggrieved by any decision of the Planning Board may apply to the Supreme Court for relief by a proceeding under Article seventy-eight of the Civil Practice Law and Rules of the State of New York. Such proceedings must be instituted within thirty days after the filing of a decision in the office of the Town Clerk. Costs shall not be allowed against the Planning Board unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
9. ~~Public Notice and Hearing. The Planning Board shall fix a time and place for a public hearing on any such Special Use Permit application and shall provide notice at least five (5) day prior to the public hearing in the official newspaper of the Town.~~

Public Notice and Hearing. The Planning Board shall fix a time and place for a public hearing on any such Special Use Permit application and shall provide notice at least five (5) day prior to the public hearing in the official newspaper of the Town.

In addition, the Secretary/Clerk of the Planning board shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every application for a special permit together with a notice of the hearing thereon by mailing such to the owners of all property abutting or adjacent to that held by the applicant or to properties within such additional distances as the Planning Board may deem advisable from the boundaries of the land involved in such application. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Planning Board.

1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.

2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying of an application.

10. ~~Decisions. Every decision of the Planning Board with respect to a Special Use Permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the office of the Building Inspector.~~

Decisions. Every decision of the Planning Board with respect to a Special Use Permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the office of the Building Inspector and Town Clerk and mailed to the applicant.

E. EFFECT OF SPECIAL USE PERMIT APPROVAL

1. No building permit shall be issued for any structure covered by this Section until such special Use Permit has received Planning Board approval and a copy of a resolution to the effect has been presented to the Building Inspector.
2. No Certificate of Occupancy shall be issued for any structure or use of land covered by this Article until the structure is completed or the land developed in strict accordance with the Planning Board resolution and applicable requirements of this Local Law.

3. Any use for which a Special Use Permit may be granted shall be deemed to be conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.
4. The granting of a Special Use Permit in a FF-O District shall not be held to constitute a representation, guarantee or warranty of any kind by the Town of Schaghticoke or by an official or employee thereof for the practicability or safety of any structure or use of the proper functioning of the proposed facilities and plans and shall not be held to create a liability upon or cause of action against such public body, official, or employee for any damage that may result pursuant thereto.

- F. ~~EXPIRATION OF SPECIAL USE PERMIT. A Special Use Permit shall be deemed to authorize only one particular Special Use, and shall expire if the Special Use Permit is not commenced and diligently pursued within eighteen (18) months of the date of Special Use Permit issuance or ceases for more than twenty-four (24) months for any reason.~~

EXPIRATION OF SPECIAL USE PERMIT. A Special Use Permit shall be deemed to authorize only one particular Special Use, and shall expire if the Special Use Permit is not commenced and diligently pursued within eighteen (18) months of the date of Special Use Permit issuance or ceases for more than twenty-four (24) months for any reason. Any request for an extension of a Special Use Permit that has not been commenced must be made in writing and submitted to the Planning Board prior to the passage of eighteen months (18) from the date of issuance of the Special Use Permit.

- G. STATUS OF EXISTING VIOLATIONS. No permit shall be issued for a Special Use Permit for a property where there is any existing violation of this Local Law.
- H. REVOCATION OF SPECIAL USE PERMIT. A Special Permit may be revoked only after public hearing and upon determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the special permit have not been, or are being no longer, complied with. In such case, a period of sixty (60) days shall be granted for full compliance by the applicant prior to revocation of the special use permit. In cases where a special use permit is revoked, an applicant may not apply for a like special use permit for a period of one (1) year.

SECTION VII PROCEDURE

SITE PLAN REVIEW

Prior to the issuance of the Building Permit or Certificate of Occupancy, in any district, except for one- and two-family dwellings and related accessory uses or a general farming or nursery use permitted by right, the Building Inspector shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this Section. The purpose of Site Plan Review is to insure that the design and layout of structures are in harmony with the character of the area in which it is located and to insure that the land use and development is appropriately designed for the community and environment.

The Planning Board is hereby authorized and provided the discretion to modify or waive the application material and review requirements for small projects that in its judgement are unlikely to generate significant traffic and do not have the likelihood of posing adverse impacts to the neighborhood or environment. Any such modification or waiver shall be made by resolution of the Planning Board detailing the grounds for the modification or waiver and shall be approved by a supermajority vote of the Planning Board. Any materials deemed necessary by the Planning board for compliance with the State Environmental Quality Review Act shall be provided by an applicant. This provision shall not permit the Planning Board to vary the dimensional, use, or other requirements that are the typical province of the Zoning Board of Appeals.

- A. **SKETCH PLAN.** A sketch plan conference between the Planning Board and the applicant shall be held to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the sketch plan conference, the applicant should provide the data discussed below in addition to a statement or rough sketch describing what is proposed.
1. An area map showing the applicant's entire holding, that portion of the property under consideration, and all properties, subdivisions, streets and easements within two hundred (200) feet of the applicant's property. Such area map shall be oriented to the nearest street intersection.
 2. If grades exceed five (5) percent or portions of the site are susceptible to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation shall be provided. In all other instances, unless otherwise requested, topography at five (5) feet intervals shall be acceptable.
- B. **APPLICATION FOR PRELIMINARY SITE PLAN APPROVAL.** An application for preliminary site plan approval shall be made in writing to the Planning Board and shall be accompanied by information drawn from the following checklist, as determined necessary at the sketch plan conference, prepared by a licensed engineer, architect, landscape architect or surveyor. The Planning Board may waive any application requirements in this section for the site

plans submitted for approval. Any such waiver may be exercised in the event any such requirements are found not to be requisite in the interest of public health, safety or general welfare, or inappropriate to a particular site plan. Any request for a waiver of applicant requirements must be made in writing to the Planning Board, and must demonstrate that compliance would cause undue hardship or that it is not applicable to the application, and shall be determined at the time of the sketch plan. Requirements of this local law may not be waived except as properly voted by the Planning Board.

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1. Preliminary Site Plan Checklist:

- a. title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- b. north arrow, scale and date;
- c. boundaries of the property plotted to scale;
- d. existing watercourses, wetlands, and floodplains;
- e. grading and drainage plan, showing existing and proposed contours at a 2 foot contour interval unless otherwise specified at the sketch plan conference;
- f. location, general design, proposed use and height of all buildings;
- g. location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto;
- h. provision for pedestrian access;
- i. location of outdoor storage, if any;
- j. location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- k. description of the method of sewage disposal and location, design and construction materials of such facilities;
- l. description of the method of securing potable water and location, design and construction materials of such facilities;
- m. location of fire and other emergency zones, including the location of fire hydrants;

- n. location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- o. location, size, lighting, and design and construction materials of all proposed signage;
- p. location and proposed development of all buffer areas, including indication of existing vegetative cover;
- q. location and design of outdoor lighting facilities;
- r. designation of the amount of building area proposed for retail sales or similar commercial activity so that the adequacy of parking and other factors may be reviewed;
- s. general landscaping plan and planting schedule;
- t. A Part I of the Environmental Assessment Form or other necessary documentation to comply with SEQRA.
- u. A traffic impact analysis. A traffic impact analysis will be required for any new use proposing to increase traffic on state, county or town roads within the Town by 100 or more cars per day.
- v. other elements integral to the proposed development, as may be considered appropriate by the Planning Board, including identification of any State or County permits required for the project's execution.

2. Application Fees. As set by the Town Board.

C. PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN. The Planning Board's review of a preliminary site plan shall follow the standards set forth in this section, in addition to all applicable specific standards set forth elsewhere in this Law. The general considerations include, as appropriate, but is not limited to the following:

- 1. General Considerations:
 - a. consistency with the adopted Town of Schaghticoke Comprehensive Plan.
 - b. the development result in minimal degradation of unique land types and minimal adverse impact upon sensitive areas such as streams, wetlands, areas of aquifer recharge and discharge, steep slopes, highly erodable soils, areas with a high water table, mature stands of vegetation and extraordinary wildlife nesting, feeding or breeding habitat.
 - c. Conform with existing geological and topographic features, to the end that the most appropriate use of land is encouraged.

- d. the landscape shall be preserved in its natural state, insofar as practicable and environmentally desirable, by minimizing tree and soil removal. If development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- e. relation of proposed structures to environment. Proposed structures shall be related harmoniously to themselves, the terrain and to existing buildings and roads in the vicinity that have a visual relationship to the proposed structures.
- f. proposed structures shall be so sited as to minimize any adverse impact upon the surrounding area, and particularly upon any nearby residences, by reason of:
 - 1) Building location, height, bulk.
 - 2) Location, intensity, direction and times of use of outdoor lighting.
 - 3) Likelihood of nuisances, noise or glare.
- g. adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls. The site plan proposal shall minimize adverse traffic effects on the road networks serving the area in question. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the public streets in conformance with this Law.
- h. adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic, handicapped access, and overall pedestrian convenience.
- i. location, arrangement, appearance and sufficiency of off-street parking and loading.
- j. location, arrangement, size, design and general site compatibility of buildings, lighting and signage.
- k. adequacy of stormwater and drainage facilities. A proposed development shall be designed so as to provide for proper surface water management

through a system of controlled drainage that, wherever practicable, preserves existing natural drainage patterns and wetlands and enhances groundwater recharge areas and that protects other properties and existing natural and artificial drainage features from the adverse effects of flooding, erosion and the depositing of silt, gravel or stone. All requirements of the New York State Department of Environmental Conservation related to the State Pollution Discharge Elimination System shall be met.

- l. adequacy of water supply and sewage disposal facilities.
- m. adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- n. adequacy of usable open space for play areas and informal recreation.
- o. protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- p. adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- q. special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion, both during and after construction.
- r. special attention to the adequacy of site layout to maintain rural character and scenic views.

2. Consultant Review

In its review, the Planning Board may consult with the Town Building Inspector, Fire Commissioners, Highway Superintendent and other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation, the State Department of Environmental Conservation, and the NYS Department of State Division of Coastal Resources.

3. Public Hearing

~~The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the~~

~~Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for preliminary site plan approval and shall be advertised in the official newspaper of the Town at least five (5) calendar days prior to the public hearing.~~

The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for preliminary site plan approval and shall be advertised in the official newspaper of the Town at least five (5) calendar days prior to the public hearing.

In addition, the Secretary/Clerk of the Planning board shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every application for a site plan together with a notice of the hearing thereon by mailing such to the owners of all property abutting or adjacent to that held by the applicant or to properties within such additional distances as the Planning Board may deem advisable from the boundaries of the land involved in such application. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Planning Board.

1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.

2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying of an application.

4. Additional Requirements

The Planning Board may require such additional provisions and conditions that appear necessary for advancement of the public health, safety and welfare and protection of the general environment.

- D. PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN. Within sixty (62) days of the receipt of a complete application for preliminary site plan approval or if a public hearing is held within 62 days of the public hearing, the Planning Board shall act on it. If no decision is made by the Planning Board within the said sixty (62) day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications. A copy of the appropriate minutes of the Planning Board shall be a sufficient statement. The Planning Board's decision must be filed with the Town Clerk within 5 business days after such decision is rendered and a copy mailed to the applicant.

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

- E. **PROCEDURE FOR FINAL DETAILED SITE PLAN APPROVAL.** After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant may prepare a final detailed site plan and submit it to the Planning Board for approval. If more than six (6) months has elapsed between the time of the Planning Board's action on that preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan review.

The final detailed site plan shall conform substantially to the approved preliminary site plan. It shall incorporate any revisions or other features that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The following additional information shall accompany an application for final detailed site plan approval:

1. Record of application for an approval status of all necessary permits from state and county officials;
2. Detailed sizing and final material specification of all required improvements; and
3. An estimated project construction schedule.

- F. **PLANNING BOARD ACTION ON FINAL DETAILED SITE PLAN.** The Planning Board may conduct a Public Hearing on the final site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of complete application for final site plan review and shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town at least 5 days before the public hearing. Within sixty-two (62) days of receipt of the application for final site plan approval, or if a public hearing is held within 62 days of the public hearing, the Planning Board shall render a decision. If no decision is made within the sixty-two (62) day period, the final site plan shall be considered approved. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board. In its decision, the Planning Board may approve, approve with modifications, or disapprove the final site plan.

1. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval

on a copy of the final site plan and shall forward such copy to the Building Inspector who may then issue a Building Permit to the applicant if the project conforms to all other applicable requirements.

2. Upon disapproval of a final site plan, the Planning Board shall inform the applicant in writing of its decision and its reasons for disapproval. The Planning Board shall also so inform the Building Inspector who shall deny a Building Permit or Certificate of Occupancy to the applicant.
 3. All Planning Board decisions must be filed within 5 business days-with the Town Clerk with a copy of said decision being mailed to the applicant.
- G. REIMBURSABLE COSTS. Reasonable costs incurred by the Planning Board for private consultation fees or other expenses in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in B (2) herein.
- H. PERFORMANCE GUARANTEE. No Certificate of Occupancy shall be issued until all improvements shown on the final site plan are installed or a performance guarantee has been posted for improvements not yet completed. Such performance guarantee shall be posted in accordance with procedures specified within Section 277 of the Town Law relating to subdivisions. Other requirements relating to performance guarantees may be established from time to time by the Town Board. The amount and sufficiency of such performance guarantee shall be established by the Planning Board after consultation with the Building Inspector, the Planning Board's designated consultants, or other competent persons.
- I. INSPECTION OF IMPROVEMENTS. The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Town's private consultants, as may be appropriate on multi-family residential, commercial and industrial projects.
- J. REQUIRED REFERRAL. Prior to taking action on the preliminary site plan, the Planning Board shall refer the site plan, where applicable, to the Rensselaer County Bureau of Planning for advisory review in accordance with Section 239 (1) and (m) of the General Municipal Law.
- K. INTEGRATION OF PROCEDURES. Whenever the particular circumstances of a proposed Development require compliance with either the Special Use Permit procedure in Section VI of this Local Law or the requirements of the Town Land Subdivision Regulations, or the requirements of the Town Land Subdivision Regulations, or the requirements of the State Environmental Quality Review Act, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this Section with the procedure for such other compliance.
- L. ~~EXPIRATION OF SITE PLAN APPROVAL. Unless construction is commenced and is diligently pursued within twelve (12) months from the date of~~

~~Planning Board approval, Final Site Plan approval is null and void. Upon application in writing, the Planning Board may extend the Site Plan Approval an additional twelve (12) months.~~

EXPIRATION OF SITE PLAN APPROVAL. Unless construction is commenced and is diligently pursued within twelve (12) months from the date of Planning Board approval, Final Site Plan approval will become null and void. Upon application in writing to the Planning Board prior to the expiration of the twelve (12) month period, the Planning Board may extend the Site Plan Approval an additional twelve (12) months.

SECTION VIII. PLANNED DEVELOPMENT REVIEW AND APPROVAL PROCEDURE

- A. INTENT AND OBJECTIVES. The Planned Development (PD) procedure provides a flexible land use and design regulation through the use of performance criteria so that developments may be matched with sensitivity to the unique characteristics of their site. This procedure recognizes that while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulations of land use in areas substantially developed, these controls represent a type of regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the planned development concept. Conventional area and density specifications set forth by other sections of this Local Law are intended to be replaced by application of the planned development procedure and resulting PD district, as provided for herein, to lands upon which the approved plan becomes the basis for control and development.

While flexibility in substantive regulations is encouraged, it is intended that this uniform procedure and the required conformance with the Town Comprehensive Plan and municipal service capability shall ensure the general welfare through equal treatment under the law as well as precise control of all aspects of the development as approved.

In order to carry out the intent of this Section, the applications of PD shall achieve the following objectives:

1. Contain an adequate and integrated system of open space and recreation areas designed to tie the PD together internally and link it to the larger community;
2. Preserve trees, outstanding natural topography and geologic features, while preventing soil erosion and uncontrolled surface water drainage;
3. Preserve and integrate historically significant structures and sites into viable adaptive uses;
4. Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs;
5. If residential in land use, provide a maximum choice in occupancy tenure

(e.g. individual ownership, lease-holds, condominiums), type of housing (e.g. detached houses, townhouses, garden apartments), lot size, and community facilities available to existing and potential Town residents;

6. Possess creative design and site planning of a quality that will produce a more desirable environment through improved functional relationships between buildings and uses;
7. Provide more convenience in the location of accessory commercial and service areas;
8. Provide an orderly transition of land from rural to urban uses; and
9. Produce a development pattern in harmony with the goals and objectives of the Town.

B. GENERAL CRITERIA. The legislative determination to establish a Planned Development District must be based upon the following standards:

1. Location. A Planned Development (PD) District may be established at any location within the Town, but only if the objectives and provisions of this Local Law are satisfied as determined by the Planning Board and Town Board and the PD is consistent with the spirit and intent of the Town's Comprehensive Plan.
2. Development Area. The minimum development area required to qualify for a Planned Development District shall be five (5) contiguous acres of land.
3. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person, or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple ownership, the approved plan and its amendments shall be binding on all owners, or their successors in title and interest.
4. Permitted Uses in PD Districts. All uses within an area designated as a PD District are determined by the provisions of this section and the approved plan of the project concerned. For a PD District involving mixed uses, such as a residential development with associated service uses, the following shall apply:
 - a. Residences may be of any variety of type and density as appropriate within the intent and objectives of this PD regulation.
 - b. Private garages, storage spaces, recreational and community facilities shall be permitted as appropriate within the PD;

- c. Commercial, service and other non-residential accessory uses may be permitted, or required, where such uses are scaled to serve the residents of the PD and, as necessary, the surrounding community; and Based upon a market analysis, commercial, service, industrial and other non-Residential uses may be permitted as principal uses if integral to the design of the PD and if such uses are supportive to the PD and the community population in terms of work force, design and character, and if such uses are consistent with the Town's Comprehensive Plan. Consideration shall be given to determine the appropriateness of such uses.
- 5. Intensity of Land Use. The density allowed within the Planned Development shall be determined by the approved Planned Development site plan, except that in any residential district the density shall not exceed that otherwise permitted in the "Area and Bulk Schedule" for that district.

Clustering is encouraged to a maximum localized density equal to that allowed for multi-family development.

- 6. Natural and Recreational Open Space.
 - a. Not less than thirty-five percent (35%) of that total area of any tract developed or or proposed to be developed as a PD District, exclusive of the land area used primarily for vehicular modes of transportation and accessory uses, shall remain forever as common property reserved for an open space system.
 - b. The open space system shall be developed to provide the following:
 - 1) passive and active recreation spaces and facilities adequate to meet under requirements based upon projected population and age distribution;
 - 2) undeveloped open space as necessary to preserve outstanding natural features;
 - 3) water areas to the extent appropriate for user needs; and
 - 4) such complementary structures, improvements and equipment as necessary and appropriate for the benefit and enjoyment of its users.
 - c. The plan/plat for all Planned Developments shall contain or be supplemented by such material as required to establish the method by which the open space system shall be perpetuated, maintained and administered. The plan/plat and other materials shall be construed as a contract between the land owner(s) and the Town, and shall be specifically noted on all deeds.

- 1) All land held for open space shall be so designated on the plat. The plat shall additionally contain the following statement; “Open space may not be separately sold, nor shall such land be further developed or subdivided”.
- 2) The plat shall designate the use of open space, the type of maintenance to be provided, and a planting plan or schedule. In designating use and maintenance, the following classes may be used:
 - a) Lawn. A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to ensure a tidy appearance.
 - b) Natural Area. An area of natural vegetation undisturbed during construction, or replanted; such area may contain pathways. Meadows shall be maintained as such and not left to become weed infested. Maintenance may be minimal but shall prevent the proliferation of weeds and undesirable plants. Litter shall be removed and streams kept in free-flowing condition.
 - c) Recreation Area. An area designated for a specific recreation use including but not limited to, tennis, swimming, shuffle board, playfield and tot lot. Such areas shall be maintained so as to avoid creating a hazard or nuisance, and shall perpetuate the proposed use.
- 3) Designated planting and recreation facilities with the open space areas shall be provided by the developer. A performance bond or other guarantee may be required to cover the costs of installation in accordance with this Local Law.
- 4) At the pleasure of the Town Board, any of the following methods may be used to preserve, own or maintain the open space areas; condominium, homeowners’ association, dedication in fee simple, dedication of development rights, or formation of a special park district. The following specific requirements are associated with each of these methods as well as any other provisions deemed necessary by the Town Board:
 - a) Condominium. The open space may be controlled through the use of condominium agreements. All open space land shall be held as a “common element”. Such land shall be eligible for sale to another method of ownership permitted under this section, but only where there is no physical change in the open space. All plats required by this Local Law shall show required open space area, whether this land is to be conveyed or not.
 - b) Homeowners’ Association. The open space may be held in

common ownership by a homeowners' association. This method shall at a minimum be subject to all of the provisions for homeowners' associations and such other provisions as may be required by the Town Board.

- c) Fee Simple Dedication. The Town may, but shall not be required to, accept any portion or portions of the open space, provided:
 - (1) such land is freely accessible to the public,
 - (2) there is no cost involved, and
 - (3) the Town agrees to and has access to maintain such lands.
 - d) Dedication of Development Rights. The Town may accept, but shall not be required to accept, title to the development rights or easements to any portion or portions of open space. In such cases, the land shall remain in the ownership of the individual, condominium, or homeowners' association, while the development rights are held in public ownership.
 - e) Special Park District. Application must be made in a suitable form for establishment of a special park district. All cost associated with establishment of such a district shall be borne by the developer.
- 5) In any scheme involving private ownership and maintenance of the open space system, provisions shall be made for dedication to the Town and for the formation of a special park district at no cost to the Town in the event that the system is not adequately maintained as determined by the Town Board.

7. Environmental Design. A proposed plan shall demonstrate sensitivity toward, and minimum disruption of, the microecology of the site and its surroundings. Specifically:
- a. Environmental quality of surrounding lands, air and water shall not be degraded;
 - b. trees, groves, waterways, scenic points, historic sites and Structures, and other community assets shall be preserved;
 - c. Excessive grading and clearing of topsoil, trees and natural features, shall be discouraged; and

- d. Design and construction of improvements and structures shall adequately control erosion, slippage, inundation, and other environmental effects.
- 8. Utilities. Required utilities shall be provided in accordance with applicable Town, County and State regulations. Among other actions, the developer shall:
 - a. Provide public water and public sewage disposal facilities in accordance with Rensselaer County Health Department, New York State Department of Health and Department of Environmental Conservation requirements;
 - b. Make application in suitable form to the Town Board for establishment of any special utility district, as may be required, with the costs incurred in the establishment of such district(s) to be borne by the developer;
 - c. Provide a water system and fire hydrants, as practicable, designed to meet the minimum standards of the “Recommended Water System Design Standards” of the Insurance Services Office of New York, Public Protection Department, with modifications as recommended by the local fire protection unit; and
 - d. Provide adequate and decorative lighting for pedestrian walkways, parking areas and streets.
- 9. Off-Street Parking. Off-street parking shall conform to the standards set forth within Section V (B) of this Local Law, except that the minimum number of spaces may be reduced if it can be demonstrated that a particular aspect of the PD makes such appropriate.
- 10. Refuse Disposal.
 - a. Refuse storage areas shall be conveniently located and enclosed in well-designed structures capable of keeping out vermin and animals.
 - b. If inside storage is to be provided, the location should facilitate pickup.
- 11. Transportation.
 - a. Non-vehicular (pedestrian and bicycle) modes shall be the primary means of transportation within the PD and to the adjacent community. There shall be a network inter-connecting the PD community and linking it to recreation, commercial, community and open space facilities and to the adjacent community.
 - b. Relationship to major transportation facilities: a PD district shall be so located as to be provided with direct access to major streets, highways,

or other transportation facilities so as to prevent the generation of traffic along minor streets in residential neighborhoods.

- c. All proposed public roads shall meet all requirements of the Town of Schaghticoke "Highway Specifications and Regulations".

12. Public Services.

- a. A full complement of necessary urban services to accommodate the Population in the Planned Development shall be available or provided by the developer. Consideration shall be given to the impact of the PD on the school district, the transportation system and facilities, fire protection, and the local tax structure. Large scale development in an area may have to be deferred until the Town can properly service such new growth.

- C. REVIEW AND APPROVAL PROCEDURE. Whenever any Planned Development is proposed, before any permit for the erection of any permanent structure in such Planned Development shall be granted, and before any subdivision plat of any part thereof may be filed in the office of the Rensselaer County Clerk, the developer or his authorized representative and the landowner(s) shall apply for an secure approval of such Planned Development in accordance with the procedures detailed in this Section.

The procedure generally combines the zoning map amendment procedure with the platting procedure of the subdivision process and is designed to establish a means for:

- 1. A change in the existing zoning district to a Planned Development District based upon an approval Sketch Plan; and
- 2. Approval of a satisfactory Preliminary and Final Site Plan/Plat.

- D. ESTABLISHMENT OF PLANNED DEVELOPMENT DISTRICT. A planned Development District may only be established in accordance with the following procedure:

- 1. Pre-filing Conference. In order to allow the Planning Board and the developer to reach an understanding on basic concepts and design requirements prior to detailed design and engineering investment, the applicant or his representative shall meet informally with the Planning Board to discuss the proposed development prior to the formal filing of an application or preparation of a Sketch Plan. At this stage, the Planning Board shall notify the Town Board of the prospective proposal of a PD District.
- 2. Sketch Plan. Based upon the concepts and design requirements developed during the pre-filing conference, a Sketch Plan shall be submitted to the Planning Board at least ten (10) days prior to its regular meeting. The Sketch Plan shall, though, clearly show the following information:

- a. The location of the various uses and their areas in acres;
- b. The general outline of the interior road system and all existing right-of-way and easements, whether private or public;
- c. Description of the various residential areas proposed, indicating for each such area the general extent, size and composition in terms of number of dwelling units, percentage by housing type (single-family detached, duplex, townhouse, garden apartment, etc.), and general description of the intended marked (luxury, middle-income, moderate-income, elderly, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total are including interior roadways) for each such area;
- d. The interior open space system;
- e. The overall drainage system;
- f. Principal ties to the community at large with respect to transportation, water supply, sewage disposal, and other infrastructure;
- g. General description of the provision of, and the demands to be placed on, other community facilities, such as schools, fire and protection;
- h. A location map showing uses and ownership of all abutting lands;
- i. Topography showing contour intervals of not more than five (5) feet;
- j. A natural features overlay clearly indicating types of vegetation, soils, natural drainageways and other significant features, vistas, areas subject to flooding, areas of high erodability, etc.; and
- k. Location and proposed use of any existing structures on property, including those which are historically significant.

In addition, the following documentation shall accompany the Sketch Plan:

- a. The name of the applicant, the name of the owner if different from the applicant, whether the applicant and/or owner are a corporation, partnership or sole proprietorship, the name of the officers and/or individuals involved, references, list of other projects they were involved within the immediate area.
- b. Evidence of how the developer's particular land use or mix of land uses

meets existing community needs as noted in the form of specific studies or reports initiated by the developer, or in the form of references to existing studies or reports relative to the project in question;

- c. Evidence that the proposal is compatible with the goals of the Town's Comprehensive Plan;
- d. General statement as to how any common open space is to be owned or managed;
- e. If the development is to be staged, a general indication of how the staging is to proceed ; and
- f. Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of the project, both physical and financial.

3. Planning Board Review of Sketch Plan. The Chairman of the Planning Board shall certify when all of the necessary application material outlined in this Section has been presented. The Planning Board shall then submit a report to the Town Board within sixty (60) days of such certification and furnish a copy thereof to the applicant. This report shall approve, approve with modifications or disapprove the Sketch Plan. If no report is rendered by the Planning Board within sixty (60) days, the applicant may proceed as if a favorable report were given to the Town Board.

In its review, the Planning Board may seek the advice and recommendations of a designated professional planner and initiate coordination, as appropriate, with the Rensselaer County Bureau of Planning, the County Health Department, the school district, the local fire district, and any other body or agency which the Planning Board deems desirable or necessary. The Planning Board's reasonable expenses for planning, engineering, or other professional consultation shall be chargeable to, and reimbursable by, the applicant.

A favorable report shall contain findings that the proposal does, or will if modified as stated in such report:

- a. Conform to the Town's Comprehensive Plan;
- b. Meet the intent and objectives of a Planned Development as stated in this section;
- c. Meet the general criteria stated in this Section;
- d. Achieve conceptual soundness in that it meets local and area-wide needs and it conforms to accepted design principles in the proposed functional

roadway and pedestrian system, land use configuration, open space system, and scale of its elements, individually and to one another; and

- d. Provide adequate physical and human protective services and utilities available or proposed to be made available in the construction of the development.

If a plan is approved subject to modification, such modifications shall be fully set forth in the report. If the plan is disapproved, the report shall clearly and fully state the reasons therefore.

4. Town Board Action on Sketch Plan.

- a. Upon receipt of a report from the Planning Board either approving or approving with modifications a proposed Sketch Plan, the Town Board shall set a date for a public hearing for the purpose of considering PD districting for the applicant's plan in accordance with the procedures established by the Town Law or other applicable law for such rezoning. Such public hearing shall be conducted within sixty (60) days of the receipt of a favorable report from the Planning Board.
- b. If a Town Board grants the PD districting, the zoning map shall be so noted. The Town Board may, if it feels such is necessary in its exercise of the police power, impose additional requirements or conditions upon the plan for the applicant to meet with may include, but shall not be limited to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, pedestrian and vehicular circulation systems, availability of sites within the area for necessary public services, protection of natural and/or historic sites, and other physical or social requirements.
- c. Conventional use and bulk regulations for the PD are replaced by the Approved Sketch Plan together with all modifications made a prerequisite for approval and all additional requirements and conditions imposed on the plan as further developed during Final Site Plan/Plat approval, in accordance with the procedures set forth in this Section.
- d. If no application for Site Plan Review is submitted within the twelve (12) month period following the creation of the PD District, the Town Board shall consider a zoning map amendment and may return the zoning classification of the property to its former status.

E. SITE PLAN/PLAT APPROVAL PROCESS.

- 1. Preliminary Site Plan/Plat Review and Approval.

- a. Application for approval of a Preliminary Site Plan/Plat for a PD District shall be made to the Planning Board and shall include the following information prepared by a licensed engineer, registered architect, and/or landscape architect:
 - 1) All information required for a Preliminary Plat under the Town's Land Subdivision Regulations; and
 - 2) All information required for Preliminary Site Plan Approval as detailed in Section VII (B) of this Local Law.
- b. The Planning Board's consideration of the Preliminary Site Plan/Plat shall include, but not be limited to, the following considerations, as applicable:
 - 1) General criteria as set forth in Part B of this Section;
 - 2) Conformity with the approved Sketch Plan;
 - 3) Design requirements of the Town's Land Subdivision Regulations and Road Specifications and Regulations;
 - 4) Considerations for review of a Preliminary Site Plan as detailed by Section VII (C) of this Local Law; and
 - 5) Conformance with other specific charges of the Town Board which may have been stated in the resolution approving the PD zoning map amendment.

In its review, the Planning Board may consult with other town and county officials, as well as representatives of appropriate federal and state agencies, including the Soil Conservation Service and the Department of Environmental Conservation. The Planning and Engineering Consultants shall submit their reviews of the Preliminary Site Plan within thirty (30) days of the receipt of the same from the Planning Board. The Planning Board may require that the exterior design of all structures be performed by, or under the direction of, a registered architect whose seal shall be prominently affixed to the plans. The Planning Board may also require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare. The Planning Board's reasonable expenses for planning, engineering, or other professional consultation shall be chargeable to, and reimbursable by, the applicant.

- c. Within sixty-two (62) days of the receipt of the application for Preliminary Site Plan/Plat approval by the Chairman of the Planning Board, the Planning Board shall conduct a public hearing, pursuant to applicable

statute. Within one hundred twenty (120) days of its receipt, the Planning Board shall act upon the application for Preliminary Site Plan approval. If no decision is made by the Planning Board within the one hundred twenty (120) day period, the Preliminary Site Plan shall be considered approved. The decision shall be in the form of a written statement to the applicant stating whether or not the Preliminary Site Plan is approved, approved with modification, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report and, if approval with or without modifications is granted, the report should specify the drawings, specifications, and forms of performance bonds that must accompany an application for final approval.

The Planning Board's statement may be that of approval, approval with modifications, or disapproval and as such should include recommendations concerning desirable revisions to be incorporated in the Final Site Plan, conformance with which shall be considered a prerequisite of full approval. Such recommendations shall be limited, however, to sitting and dimensional details within general use areas, and shall not significantly alter the Sketch Plan as it was approved in the rezoning to PD.

If the Preliminary Site Plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the Site Plan to the Town Board after it has been revised or redesigned.

2. Final Site Plan/Plat Review and Approval.

- a. After receiving approval, with or without modifications, of the Preliminary Site Plan/Plat, and approval for all necessary permits from State and County officials, the applicant may prepare a Final Site Plan/Plat and submit it to the Planning Board for final review.

If more than twelve (12) months have elapsed between the time of the Planning Board's report and the Preliminary Site Plan/Plat; and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require resubmission of the Preliminary Site Plan/Plat for further review and possible revision prior to accepting the proposed Final Site Plan/Plat for review.

- b. The Final Site Plan/Plat shall include all information required under the Town's Land Subdivision Regulations.
- c. The Final Site Plan/plat shall conform substantially to the Preliminary Site Plan/Plat that has received Preliminary Site Plan approval. It should

incorporate any revisions or other features that may have been recommended by the Planning Board and/or Town Board at the time of preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

- d. If no approved Final Site Plan/Plat for a PD District is filed with the Office of the County Clerk within a period of thirty (30) months from approval of the Preliminary Site Plan by the Planning Board, the Town Board shall consider a zoning map amendment and may return the zoning classification of the property to its status prior to its rezoning to PD.
- e. Within sixty-two (62) days of receipt of the application for Final Site Plan approval, the Planning Board shall render a decision. If no decision is made within the sixty-two (62) day period, the Final Site Plan shall be considered approved.
 - 1) Upon approving an application the Planning Board shall endorse its approval on a copy of the Final Site Plan and shall forward it to the Building Inspector who may then issue a Building Permit to the applicant if the project conforms to all other applicable requirements and all fees and reimbursable costs have been paid to the Town.
 - 2) Upon disapproving an application, the Planning Board shall so inform the Building Inspector and the Building Inspector shall deny any requested Building Permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and the specific reasons for its disapproval. A copy of the appropriate meeting minutes may suffice for this notice.
- f. If the applicant wishes to stage his development, and he has so indicated on the approved Sketch Plan, he may submit only those stages he wishes to develop for site plan approval in conformance with his approved staging plan. Any plan, which requires more than twenty-four (24) months to be completed shall be required to be staged; and a staging plan must be developed. At no point in the development of the PD shall the approved ratio of differing uses or non-residential to residential acreage or the dwelling unit ratios between the several different housing types for that portion of the PD completed and/or under construction differ from that of the PD as a whole by more than twenty percent (20%).
- g. Other Applicable Regulations.
 - 1) For the purpose of regulating the further development and use of PD property after initial construction and occupancy, any changes shall be in the form of a special use permit request to the Town Board. It shall be noted that the properties located in mixed use

Planned Development Districts are unique and shall be so considered by the Town Board or Planning Board when evaluating these requests. The maintenance of the intent and function of the Planned Development shall be of primary interest.

- 2) Site Plan Review under the provisions of this Section shall constitute the Planning Board's review of the subdivision under applicable Town Land Subdivision Regulations, subject to the following conditions:
 - a) The developer shall prepare sets of subdivision plats suitable for filing with the Office of the Rensselaer County Clerk in addition to those drawings required by this Section.
 - b) The developer shall plat the entire development as a subdivision; however, a Planned Development District being developed in stages may be platted and filed in the same stages.
 - c) Final site plan review and approval shall constitute final plat approval under the Town Land Subdivision Regulations. Provisions of Section 276 of the Town Law requiring that the plat be filed with the County Clerk within sixty-two (62) days of final Planning Board approval shall apply.
- h. Financial Responsibility. No building permits shall be issued for construction within a Planned Development until necessary improvements are installed or performance bonds posted in accordance with the same procedure as provided for in Section 277 of the Town Law relating to subdivisions. Other requirements regarding performance bonds may also be established from time to time by the Town Board.
- i. Fee. Application for approval of a Planned Development District Sketch Plan shall be accompanied by a fee equal to that charged under the Town's Land Subdivision Regulations for review of a similarly-sized subdivision Plat.

SECTION IX.

NON-CONFORMING USES, STRUCTURES AND BULK

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this Local Law, to all buildings and uses that may become non-conforming or non-complying by reason of any subsequent amendment to this Local Law and the Zoning Map which is a part thereof, and to all complying buildings housing non-conforming uses:

A. **NON-CONFORMING USES.** Any non-conforming use of buildings or open land, except those specified in Park C herein, may be continued indefinitely, but:

1. Shall not be enlarged, altered, extended, reconstructed or restored, except as provided below, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Local Law, nor shall any external evidence of such use be substantially increased by any means whatsoever;
2. Shall not be moved to another location where such use would be non-conforming;
3. Shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals, and then only to a use which, in the opinion of the Board of Appeals, is as conforming or more conforming to the character of the neighborhood and zone district in which it is located as compared to the current non-conforming use.
3. Shall not be reestablished if such use has been discontinued for any reason for a period of one (1) year or more, or has been changed to, or replaced by, a conforming use, with the intent to resume a non-conforming use not conferring the right to do so. An exception to the one (1) year period to restore a legal non-conforming use may be granted where a structure sustained damage for any reason and an owner would be unable to complete reconstruction with the required period. In these cases, a period of up to two (2) years may be granted provided that the restoration is commenced within six (6) months of the event causing the damage and the restored structure will not exceed the bulk, height, or area of the original structure.

While a non-conforming use may not be extended, nothing contained herein shall prohibit the extension of a lawful use to any portion of non-complying buildings or structure which existed prior to the enactment of this Local Law. No non-conforming use shall, however, be extended to displace a conforming use.

B. **NON-COMPLYING BUILDINGS.** Nothing contained in this Section shall be deemed to prevent normal repair and maintenance of, or structural alteration within, a non-complying building, provided that such action does not increase the degree of, or create any new, non-conformity. Further, any non-complying building or structure declared unsafe by proper authority may be restored to a proper condition within the time period

provided by such authority.

C. **TERMINATION OF CERTAIN USES.** Each of the non-conforming uses specified below is deemed sufficiently objectionable and out of character within the zoning district in which such use is located as to depreciate the value of other property and uses permitted in the district and otherwise inhibit the proper and orderly development of such district. Therefore, each such non-conforming use must be, and shall be, terminated on or before the expiration of the specified period of time after the effective date of this Local Law. Said period of time is specified as one that is reasonable to permit the amortization Of the remaining value, if any, of such use.

1. All non-accessory, off-site advertising signs, including but not limited to billboards, not in conformity with the Sign Regulations included in Section V (C) herein, may be continued for a period of five (5) years after the effective date of this Local Law, provided that, after the expiration of such period, such non-conforming use shall be terminated.
2. Any non-conforming or non-complying sign, accessory or non-accessory, Including such features as prohibited in Section V (C) herein shall be modified by its owner to conform or be removed within ninety (90) days after receipt by the owner of specific written notice from the Building Inspector to so comply.
3. Any sign existing on or after the effective date of this Local Law which advertises a business no longer conducted, product no longer available, or service no longer provided on the premises, shall be removed by the owner of the sign and/or premises upon which the sign is located within thirty (30) days after receipt of written notice from the Building Inspector to remove such obsolete sign.

SECTION X.

ADMINISTRATION AND ENFORCEMENT

- A. **GENERAL.** The Town Board shall administer and the Town Code Enforcement Officers shall enforce all provisions of this Local Law except where otherwise herein specifically required. Whenever any permit is required herein the same shall be applied for and shall be issued in the first instance from the Office of Town Building Inspector in accordance with the requirements of this Local Law and applicable Town regulations governing building construction and the issuance of building permits.

The Town Code Enforcement Officers shall have the right to enter upon, examine, and inspect, or cause to be entered, examined and inspected, any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this Local Law. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Building Inspector.

- B. **POWERS AND DUTIES OF THE BUILDING INSPECTOR.** In addition to all other authority conferred by law, the Building Inspector shall have the following powers and duties with respect to this Local Law.

1. **Issuance of Building Permits.** No building or structure shall be erected, altered, reconstructed or enlarged until the Building Inspector has issued a building permit stating that the proposed use and structure comply with all applicable provisions of this Local Law.
2. **Issuance of Certificate of Occupancy.** No use shall be established or land or structure occupied until the Building Inspector has issued a Certificate of Occupancy stating that the use, land and structure comply with all applicable provisions of this Local Law.

More particularly, no Certificate of Occupancy shall be issued for any special use of a building or of land requiring Special Use Permit approval by the Planning Board unless and until such special permit or site plan approval has been granted by the Planning Board. Every Certificate of Occupancy for which a Special Use Permit or site plan approval has been granted, or in connection with which a variance has been granted by the Zoning Board of Appeals, shall contain a detailed statement of any condition to which the same is subject, and include, by attachment, a copy of such Zoning Board of Appeals decision.

3. **Issuance of Notices of Violation.** Whenever, in the opinion of the Building Inspector, after proper examination and inspection, there appears to exist a violation of any provision pursuant thereto, he shall serve a written notice upon the appropriate person (s) responsible for such alleged violation. Such notice shall be served in accordance with the requirements of Section X (C) herein.

4. Issuance of Stop Orders. Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this Local Law, not in conformity with any application made, permit granted or other approval issued hereunder, or in an unsafe or dangerous manner, the Building Inspector shall promptly notify the appropriate person(s) responsible to suspend work on any such building or structure or the use of any such land. Such person(s) shall forthwith suspend such activity until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and may be served upon the person(s) whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building under construction or premises in use and additionally sending a copy of the same by registered mail.
5. Emergency Action. If, in the opinion of the Building Inspector, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety, morals or welfare of occupants of a building or to other persons, the Building Inspector may direct such violation immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant, or person(s) responsible for the violation. The Building Inspector shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken, and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses or place a lien against property, in order to recover the said costs.

D. VIOLATIONS.

1. Notice of Violation. A notice of violation of any provision of this Local Law, or any rule or regulation adopted pursuant thereto, shall inform the recipient:
 - a. The nature and specific details of such violation;
 - b. Recommended remedial action which, if taken, will effect compliance with the provisions of this Local Law and with rules and regulations adopted pursuant thereto;
 - c. The date of compliance by which the violation must be remedied or removed; and
 - d. The recipient's right to a hearing before the Building Inspector, as provided below.
2. Right to Hearing. Any person served with such notice of violation and who denies the existence of the violation or is allegedly aggrieved by the required action necessary for compliance may, within ten (10) days of service of notice, requires in writing a hearing before the Building Inspector, specifically noting the reasons why such hearing is requested.

- a. Within ten (10) days after receipt of such request for a hearing, the Building inspector shall acknowledge receipt in writing and set a time and place for such hearing not later than thirty (30) days after the date such request was received. Such hearing may be postponed beyond the thirty (30) day limit for just cause, with notice of such postponement served. At such hearing, the person requesting the hearing shall be required to show cause or give evidence why he should not be required to remedy the violation or why he is unable to comply with the remedial action outlined in the notice of violation.
- b. After consideration of all testimony given at such hearing, the Building Inspector shall either sustain, withdraw, or modify the notice of violation as originally served. If the notice is sustained or modified, the Building Inspector shall set a new compliance date either consistent with the original notice of violation or extended as appropriate. Such extension shall only be permitted if there exists both reasonable evidence of intent to comply and reasonable conditions which prevent compliance by the previously specified date.

D.

PENALTIES

1. ~~Civil~~ Penalty. Violation of any provision or requirement of this Ordinance or violation of any statement, plan, application, permit, or certificate approved under the provisions of this Ordinance shall, in accordance with Section 268 of Town Law, be considered an offense punishable by a fine of not more than two hundred fifty dollars (\$250), and/or imprisonment for not more than fifteen (15) days for each such offense. The owner, general agent, operator, or contractor of any Structure, Building, Lot, property, premissis or location of a Land Use Activity ~~contractor of a building premises~~, or part thereof, where such a violation has been committed or does exist, and any agent, contractor, architect, builder, corporation or other person who commits, takes part or assists in such violations, shall be liable for such an offense. All such penalties shall be collectible by and in the name of the Town; ~~each~~ Each and every day that any such violation continues after notification that such violation exists, shall constitute a separate offense. Such notice shall be given in writing by the Zoning Administrator and shall be served by certified mail or personal service.
2. Court Action. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceedings in a court of competent jurisdiction to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain by injunction, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.
3. Taxpayer Action. If the Building Inspector fails or refuses to act upon or refer a violation of this Local Law to the Town Attorney for legal action in accordance with the provisions contained herein within a ten (10) calendar day period following written request by any taxpayer to so proceed, then any three (3) or more taxpayers of the Town of Schaghticoke, who are jointly or severally

aggrieved by such violation, may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

SECTION XI.

ZONING BOARD OF APPEALS

- A. **CREATION, APPOINTMENT AND ORGANIZATION.** A Zoning Board of Appeals is hereby created in accordance with Section 267, Article 16 of the Town Law. Said Board shall consist of five (5) members, appointed by the Town Board. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. The Town Board shall have the power to remove any member of the Board for cause and after public hearing. The Town Board shall designate the Chairman of the Board of Appeals, while the Board of Appeals shall designate its Secretary and may prescribe reasonable rules in addition to those provided herein for the conduct of its affairs.
- B. **POWERS AND DUTIES.** The Board of Appeals shall have all the powers and duties prescribed by law and by this Local Law, which are more particularly specified as follows:
1. **Interpretation.** On appeal from an order, requirement, decision or determination made by an administrative official, or on request by an official, board or agency of the Town, to decide any of the following questions:
 - a. Determination of the meaning of any portion of the text of this Local Law or of any conditions or requirement specified or made under the provisions of this Local Law.
 - b. Determination of the exact location of any district boundary shown on the Zoning Map.
 2. **Variances.** To authorize, upon appeal in specific cases, such variances from the terms of this Local Law as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out of the strict letter of this Local Law subject to terms and conditions to be fixed by the Board; provided, however, that no such variance shall be granted unless the Board finds:
 - a. **Use Variance.** An authorization by the Zoning Board of Appeals that allows a specified use in a zone district including restricted locations on the lot or within the structure in which the specified use is not allowed by this Local Law. In order to qualify for use variance, an applicant must provide evidence for the record that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular District where the property is located:

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

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

b. Area variance. An authorization by the Zoning Board of Appeals that allows a departure from area requirements of this Local Law. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) whether the requested area variance is substantial;
- 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 4) whether the alleged difficulty was self-created, which consideration shall be relevant to the board of appeals, but shall not necessarily preclude the granting of the area variance.

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

- c. Change of Non-conforming Use. See Section IX (A) (3) of this Local Law.

C. PROCEDURE. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this Local Law.

1. Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of three (3) members, but in order to reverse a decision of the Building Inspector or authorize a variance, an affirmative vote of at least three (3) members shall be required. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and shall keep records of its examinations and other official actions.
2. Application and Fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and shall be accompanied by a fee as established by the Town Board. Every appeal or application shall refer to the specific provision of this Local Law that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted.
3. ~~Public Notice and Hearing.—The Board shall fix a time and place for a public hearing on any such appeal or application, and shall provide notice as follows:~~
 - a. ~~By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the Town.~~
 - b. ~~By requiring the Secretary of the Board of Appeals to provide notice at least five (5) calendar days prior to the date thereof of the substance of every appeal for a variance together with a notice of the hearing thereon by mailing such to the owners of all property abutting that held by the applicant and all other owners within five hundred (500) feet, or such additional distances as the Board of Appeals may deem advisable, from the boundaries of the land involved in such appeal. Compliance with this notification procedure shall be certified to by the Secretary of the Board of Appeals.~~
 - 1) ~~The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.~~

- 2) ~~Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in connection with granting or denying of an appeal for a variance.~~

Public Notice and Hearing. The Board shall fix a time and place for a public hearing on any such appeal or application, and shall provide notice as follows:

- a. By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the Town.
- b. The Secretary/Clerk of the Board of Appeals shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every appeal for application with a notice of the hearing thereon by mailing such to the owners of all property abutting or adjacent to that held by the applicant or to properties within such additional distances as the Board of Appeals may deem advisable, from the boundaries of the land involved in such appeal. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Board of Appeals.

1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.

2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in connection with granting or denying of an appeal for a variance.

- c. ~~By requiring the Secretary of the Board of Appeals to transmit to the Chairman of the Planning Board a copy of any appeal for a variance together with a copy of the notice of such hearing at least twenty (20) calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Board submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Board to submit such report, said Board shall be deemed to have recommended approval of the application or appeal.~~

In such cases as deemed necessary or advisable by the Board of Appeals and upon motion by the Board of Appeals, by requiring the Secretary/Clerk of the Board of Appeals to transmit to the Chairman of the Planning Board a copy of any appeal for a variance together with a copy of the notice of such hearing at least twenty (20) calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Board submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Board to submit such report,

said Board shall be deemed to have recommended approval of the application or appeal.

- d. If the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit at least five (5) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal together with a copy of the official notice of such public hearing.
4. **Required Referral.** A full statement of any appeal that meets the referral requirements of Section 239 l and m of the General Municipal Law shall also be referred prior to the public hearing to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Board of Appeals on such appeal until an advisory recommendation has been received from the Bureau of Planning or thirty (30) calendar days have elapsed since the Bureau received such full statement.
5. **Decisions.** The Zoning Board of Appeals must render its decision within sixty (60) days after the final hearing. Each decision shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the Office of the Town Clerk within ten (10) calendar days thereof. The Board shall also notify the Secretary of the Planning Board and the Municipal Clerk of any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven (7) calendar days of said action with the Rensselaer County Bureau of Planning.
6. **Attachment of Conditions.** In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this Local Law, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this Local Law.
7. **Reimbursable Costs.** Reasonable costs incurred by the Zoning Board of Appeals for private consultation fees or other extra ordinary expense in connection with the review of a request for variance shall be charged to the applicant in addition to the fee required in C.2. herein.
8. **Expiration of Approval.** ~~Unless construction or use is commenced and diligently prosecuted within twelve (12) calendar months of the date of the granting of a variance, such variance shall become null and void.~~

Expiration of Approval. Unless construction or use is commenced and diligently prosecuted within twelve (12) calendar months of the date of the granting of a variance, such variance shall become null and void. Any request for an extension of a variance that has not been commenced must be made in writing and submitted to the Zoning Board of Appeals prior to the passage of twelve (12) months from the date of issuance of the variance.

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

SECTION XII.

AMENDMENTS

This Local Law or any part thereof, including the Zoning Map indicating the district boundaries, may be from time to time amended, supplemented, changed, modified or repealed by the Town Board in the manner provided by Section 265, Article 16 of the Town Law. Every proposed amendment or change shall be referred by the Town Board to the Planning Board for its review and recommendation pursuant to Section 274, Article 16 of the Town Law and pursuant to the specific provisions of this Local Law. Every such proposed amendment or change shall also be reviewed by the Town in accordance with the procedures established under Article 8 of the New York State Environmental Conservation Law and Part 617 of Title 6 NYCRR, providing for environmental quality review of any action that may have a significant effect on the environment.

A. **REPORT OF THE PLANNING BOARD.** In undertaking such review and making such recommendation on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

1. Concerning a proposed amendment or change in the text of the Local Law:
 - a. Whether such change is consistent with the purposes embodied in this Local Law as applied to the particular districts concerned;
 - b. Which areas and establishments in the Town will be directly affected by such change and in what way will they be affected;
 - c. The indirect implications of such change in its effect on other regulations; and
 - d. Whether such proposed amendment is consistent with the underlying objectives of the Town Comprehensive Plan.
2. Concerning a proposed amendment involving a change in the Zoning Map:
 - a. Whether the uses permitted by the proposed change would be appropriate in the area concerned;
 - b. Whether adequate public school facilities and other public service exist or can be created to serve the needs of any additional residence likely to be constructed as a result of such a change;
 - c. Whether the proposed change is in accord with any existing or proposed plans in the vicinity;
 - d. The effect of the proposed amendment upon the growth of the Town as foreseen by the Comprehensive Plan;

- e. Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Town and the probable effect thereof.

B. TOWN BOARD PROCEDURE.

1. Public Notice and Hearing. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows in accordance with Article 16 of the Town Law:
 - a. By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Town, specifying:
 - 1) the nature of the proposed amendment,
 - 2) the land or district affected, and
 - 3) the date, time and place where the public hearing shall take place; and
 - b. By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of any other municipality at least ten (10) calendar days prior to the date of such public hearing.
2. Required Referral. The Town Board shall transmit a full statement of any proposed amendment that meets the referral requirements of Section 239 (1) and (m) of the General Municipal Law to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the Bureau of Planning or thirty (30) calendar days have elapsed since the Bureau received such full statement.
3. Town Board Action. The Town Board may approve any such proposed amendment by a majority vote of said Board, except that a favorable vote of at least four (4) members of the Town Board, a majority plus one, shall be required if:
 - a. Action being taken is contrary to the recommendation received from the Rensselaer County Bureau of Planning under the provisions of Section 239 (l) and (m) of the General Municipal Law, or

- b. A protest against such amendment has been signed by the owners of at least twenty (20) percent of the land area included in such proposed change or of that immediately adjacent extending one hundred (100) feet therefrom or that directly opposite.
- 4. Conformance with Town Comprehensive Plan. In all cases where the Town Board shall approve an amendment to the Zoning Map, said Board shall find, for reasons fully set in its resolution, such amendment to be in conformity with the Town's Comprehensive Plan.

SECTION XIII.

DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purposes of this Local Law, have the meaning herein indicated. Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word “lot” includes the word “plot”, the word “structure” includes the word “building”. The term “occupied” or “uses” as applied to any building or land shall be construed to include “arranged”, “designed”, “constructed”, “altered”, “converted”, “rented”, leased” or “intended to be used or occupied”. The word “shall” is mandatory and not optional.

ACCESSORY APARTMENT. A self-contained dwelling unit, having its own exterior or interior entrance, which is subordinate to the principal residence but on the same lot.

ACCESSORY STRUCTURE. A detached structure customarily incidental and subordinate to the principal building and located on the same lot with such principal building.

ACCESSORY USE. A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

AGRICULTURE -- All activities directly related to the grazing, growing or raising of crops or livestock, including but not limited to horticultural and fruit production, but not including timber harvesting, provided that such activities are conducted on seven (7) acres producing \$10,000 in gross sales or less than seven (7) acres producing \$50,000 in gross sales. Timber harvesting and drainage or permanent alteration of wetlands, watercourses or controlled areas is not included in agricultural activities. See also definition for Farm.

AGRITOURISM – Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity may be secondary to the primary farm use on a property located in the RA District. Agri-tourism activities may be conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

ALTERATION. As applied to a building or structure, a change or rearrangement in the structural parts of a building or an enlargement, whether by extending on the front, rear or on a side, or by increasing the height, or the moving of such structure from one location or position to another.

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

AREA AND BULK REGULATIONS. The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot.

AUTOMOBILE SERVICE STATION. Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including the sale of motor vehicle accessories and which may or may not include facilities for lubrication and other minor servicing of motor vehicles but not including, the painting thereof by any means; any rebuilding, reconditioning or collision services involving frame and fender straightening or repair, or any dismantling or disassembly of frame and exterior parts.

BASEMENT. A story in a building, the structural ceiling level of which is four feet or more above the average finished grade, and the floor level of which is below finished grade at any point on the peripheral of the building.

BILLBOARD (SIGN ADVERTISING). A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is primarily conducted, sold, or offered elsewhere that upon the premises on which such sign is located, or to which it is affixed.

BOARD OF APPEALS. The Zoning Board of Appeals of the Town of Schaghticoke as provided for in Section XI of this Local Law.

BOARDING, LODGING OR ROOMING HOUSE. A private dwelling in which at least two (2) but not more than six (6) rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BUFFER ZONE. A strip of land established to protect one type of land use from another with which it is incompatible.

BUILDABLE AREA. The space remaining on a lot after the minimum open space requirements (coverage, yards, setbacks) have been met.

BUILDING. Any structure of more or less permanent construction, which is permanently affixed to the land, wholly or partially enclosed within exterior walls and a roof affording shelter to persons, animals, property or business activity.

BUILDING ACCESSORY. A building, such as a garage, garden or tool shed, barn, or playhouse, which is detached from and subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the main building.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

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

BUILDING COVERAGE. The amount of land covered or permitted to be covered by a building or buildings, measured in terms of a percentage of the total lot area. Such coverage to be measured on a horizontal plane at mean grade level and excludes uncovered porches, terraces, and steps.

BUILDING ENVELOPE – The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes the building, driveway, and any lands disturbed for well and septic systems.

BUILDING INSPECTOR. That Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing this Local Zoning Law, as well as the New York State Building Code and related regulations.

CAMP. Any one or more of the following, other than a hospital, place of detention, or school offering general instruction.

- a. **TYPE I:** Any area of land or water on which are located two or more tents, recreational vehicles, shelters, houseboats, or other accommodations of a design or character suitable for seasonal or temporary living purposes only.
- b. **TYPE II:** Any land, including any buildings or recreational facilities thereon, used for the seasonal assembly of persons, whether or not occupied by adults or by children, either as individuals, families or groups, and used in one of the following manners:
 - 1. on a daily basis, for what is commonly known as a “day camp” where individuals leave such camp at the end of each daily session and return on the subsequent day; or,
 - 2. on an extended basis, such as a week or multiple of weeks, where individuals remain at such camp for the duration of a prescribed session, such as 4-H camps, Boy Scout/Girl Scout camps, sports camps, etc.

CELLAR. Any space in a building, the structural ceiling of which is less than four feet above the average finished grade.

CERTIFICATION OF OCCUPANCY. Official certification that a premises conforms to the provisions of this Local Zoning Law, Building Code, and other applicable regulations, and may be used or occupied.

CHURCH. Any structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

CLEARING -- Any activity which removes or significantly disturbs trees, brush, grass or any other type of vegetation.

CLOTHING BINS. For the collection of used clothing for charitable purposes.

CLUB, COUNTRY. A membership club customarily having golf course facilities. When club goes “public”, eliminating membership requirement for use of the facility, it shall be required that such conversion be reviewed and approved as a site plan by the Town of Schaghticoke.

CLUB, MEMBERSHIP. An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing they are not conducting any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

CLUSTER DEVELOPMENT. A development pattern in which uses are grouped or “clustered” through a density transfer within a particular development, rather than spread evenly throughout a parcel as in conventional lot-by-lot development.

COLLECTIVE SOLAR: Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

COMPREHENSIVE PLAN. An underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community’s problems and applying a general policy to obtain a uniform result.

CONSERVATION SUBDIVISION A development pattern in which the structures are placed on a lot in a manner which protects critical environmental and cultural features that may be present and where 50% of the parcel is permanently preserved as open space.

CONVENIENCE FOOD STORE. A facility of 4,000 square feet of gross floor area or less with any combination of the following primary characteristics:

1. retail sale of food and beverages for consumption off premises;
2. sale of prepared foods, such as sandwiches, soups, ice cream, etc. for consumption on or off the premises, and may include in-door seating for such purposes;
3. sale of gasoline or other fuel, oil or other lubricating substances, or other motor vehicle accessories, and generally of a self-service type;

(Examples of such facilities include Stewart’s Bread N’ Butter Shops, Convenience Food Stores, 7-Eleven Stores, and Cumberland Farms Stores).

CONVERSION. A change in use or occupancy of a building, generally by alteration or by other reorganization, as to increase the number of families or dwelling units in a structure.

CORNER LOT. A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of inter-section of the street right-of-way lines is the “corner”.

DENSITY. The ratio of lot area per family or dwelling unit on a lot.

DEVELOPMENT. The establishment of a use on a lot or in relation to a structure, or the erecting or structural alteration of a structure.

DISTRICT. An area, section or zone of the Town within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DISTURBANCE -- Site preparation or removal of vegetation, including but not limited to blasting, grading, excavation and filling and/or construction activities, including but not limited to the building of structures and driveways.

DRAINAGE -- The gravitational movement of water or other liquids by surface runoff or surface flow.

DRIVE-IN ESTABLISHMENT. Premises constructed to cater to the motoring public, whether or not serving pedestrians as well as automobile trade, and used for the sale to the public of any product and providing curb or window service.

DRIVEWAY. A private access route directly serving a parking area; or serving parking spaces not directly serving more than two (2) dwelling units, and not providing a route for through traffic.

DUMP. A lot or land used primarily for the disposal by abandonment, burial, burning or any other means for whatever purpose of garbage, sewage, trash, refuse, junk, discarded vehicles or parts thereof, or waste material of any kind.

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

DWELLING, ONE-FAMILY. A detached building containing one (1) dwelling unit only and located on a single lot.

DWELLING, TWO-FAMILY. A detached or semi-detached building containing two (2) dwelling units only, located on a single lot.

DWELLING, MULTIPLE. A detached, semi detached or attached building or portion thereof containing three (3) or more dwelling units and located on a single lot.

DWELLING, ROW OR ATTACHED. One-family dwelling with party walls separating it from adjacent units on one or both sides.

DWELLING UNIT. A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one (1) family, including any domestic servants employed on the premises and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other “dwelling unit”. A boarding house, dormitory, motel, inn, nursing home, or other similar building shall not be deemed a dwelling unit.

EROSION -- The wearing away of the land surface by action of wind, water, gravity or other natural forces.

EXCAVATION -- Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

FAMILY. One or more than one person occupying a dwelling unit and living as a single non-profit housekeeping unit with not more than four (4) roomers, boarders, or lodgers. A roomer, lodger or boarder residing with a family shall mean a person or group of persons residing within a household, not related by blood, marriage, or adoption to the non-profit housekeeping unit who pay a valuable consideration for such residence and who do not occupy such space within the household as an incident of employment therein.

FARM. The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation as defined in this local law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FARM MARKET. For the purpose of this Local Law, a Farm Market is a permanent year-round structure for the purpose of the sale of farm produce and agricultural products.

FENCE. An unroofed, enclosing structure erected for the purpose of preventing passage or view.

FINISHED GRADE. The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade—in computing height of buildings and other structures or for other purposes—shall be the average elevation around the periphery of the building, except that this average shall not exceed one-half of the floor to ceiling height.

FLAG LOT. A building lot not meeting the required road frontage and characterized by a narrow strip of property by which access is gained.

FLOOD, 100 YEAR. The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year).

FLOOD PLAIN OR FLOOD PRONE AREAS. A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded.

FLOOD PLAIN AREA WITH SPECIAL FLOOD HAZARDS. Maximum area of the flood plain that, on the average, is likely to be flooded once every 100 years (i.e., that has a 1% chance of being flooded every year).

FLOOD PLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, flood control works, and land use and control measures.

FLOODPROFFING. Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOOD PROTECTION ELEVATION. The one hundred (100) year flood elevation plus one (1) additional foot of elevation.

FLOOR AREA. The sum of the gross horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) buildings. Flood space shared in common with other dwelling units or used for storage purposes, or the operation and maintenance of the building shall not be included in computing floor area.

FLOOR AREA, LIVABLE. The sum of the gross horizontal area of a dwelling unit measured from the exterior walls or from the center of a party wall, excluding roof, cellar, and garage. Livable floor area shall include spaces such as utility rooms, bathrooms, closets, hallways, and attic space having a clear height of at least six (6) feet from the finished floor level to pitch of roof rafter, with a clear height of seven (7) feet six (6) inches from the finished floor level to the ceiling level over fifty percent (50%) of the area of such attic space.

FLUSH-MOUNTED SOLAR PANEL: Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FORESTRY. Commercial logging operations, clearing or destruction of forested or woodland areas, selective cutting or clearing for commercial or other purposes, clearing for agricultural or other prospective land uses, and clearing of vegetation in reserved open space or resource protection area; however, it shall not include clearing for single family residence construction sites where such clearing shall be carried out as part of the Building Permit issuance procedure. All such other operations shall be subject to and carried out in conformance with New York State Department of Environmental Conservation Timber Harvesting Guidelines for New York.

FOWL. Includes but is not limited to domesticated birds such as chickens, ducks, geese, turkeys and pheasants raised in confinement.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

FRONTAGE. That side of the lot nearest the street. A corner lot shall be considered to have two (2) such frontages.

GAMES ARCADE. Shall mean any lot, premises, facility, building or structure, open to the public, in which three (3) or more bowling alleys, electronic or mechanical games or amusements, billiard or pool tables, or any other games or amusement devices of any kind as such terms are defined herein, or any combination of three (3) or more such games or devices as aforesaid, are operated, used or maintained as a principal business where a fee is charged, either directly or by membership, ticket or other indirect fees, either for admission to any such place or premises or for access to or use of any such games or amusement devices as aforesaid.

GAMES AND AMUSEMENT DEVICES. Shall mean any electric, mechanical, computerized, electronic or other device, machine or implement which is either designed or intended, or used, operated or maintained, as a game, amusement or means of entertainment, including but not limited to the following: pinball machines, shooting galleries, computerized games, electronic games, skillboards, billiard or pool tables, electronic bowling or shuffleboard tables, bowling alleys and casino-type games, or bagatelle, or any other similar games of skill or chance. Also included within the definition are coin-operated mechanical or electronic musical devices which are commonly referred to as “jukeboxes”.

GARAGE, PRIVATE. An enclosed space for the storage of one (1) or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

GARAGE, PUBLIC. Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.

GASOLINE FILLING STATION. An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

GLARE: For purposes of solar siting, spillover of light beyond the property boundaries in a manner which either impairs vision or beams light onto adjoining properties or toward the sky.

GRADE, FINISHED. The completed surfaces of lawns, walks and streets brought to grades as shown on site plans or designs relating to.

GRADING -- The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

HEIGHT, BUILDING. The vertical distance measured from the mean elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line or mansard roofs and the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires, towers, elevator, penthouses, tanks and similar projections.

HOME OCCUPATION. A profession or other occupation conducted within a dwelling unit by one (1) or more members of the family residing therein and clearly incidental to the principal use of the lot for residential purposes. In particular, a home occupation includes, but is not limited to, art studios, dressmaking, teaching, with musical or dancing instruction limited to a single pupil at a time, offices of a clergyman, lawyer, landscape architect, physician, dentist, architect, engineer, optician, realtor, accountant, plumbing and electrical contractors, barber shop, beauty parlor, or similar use, but shall not include animal hospital or dog kennels, automotive repair service, restaurant, clinic or hospital or similar use.

HOMEOWNER'S ASSOCIATION. An organization of homeowners residing within a particular development whose major purpose is to preserve, maintain, and provide community areas, facilities and services for the common enjoyment of the residents.

HORSE BOARDING OPERATION. A farm operation consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually for fees generated either through the boarding of horses or through the production for sale of crops, livestock, livestock products, or through both such boarding and such production. A horse boarding operation provides care, housing, health, related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and uses for such activities, are part of the farm operation. Riding academies offering riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding and operations whose primary function is horse racing are not considered a horse boarding operation.

HORSE FARM An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this be construed to include operations whose primary on site function is horse racing.

HOSPITAL. A building containing beds for four or more patients, and used for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment, or other care of human ailments.

HOTEL. A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy and has a common exterior entrance or entrances.

JUNK YARD. An area of land with or without buildings used for or occupied by a deposit, collection, or storage, outside a completely enclosed building, of used or discarded materials such as waste paper, rags, or scrap material; or used building materials, house furnishings, machinery, or parts thereof, with or without dismantling, processing, salvage, sale or other use or disposition of the same.

JUNK YARD, MOTOR VEHICLE. An area of land with or without buildings used for or occupied by a deposit, collection, or storage, outside a completely enclosed building of used or discarded motor vehicles, or parts thereof; with or without the dismantling, wrecking, salvage, sale, or other use or disposition of the same. A deposit, collection, or storage on a lot of two (2) or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for one (1) week or more in a residential district or for three (3) weeks or more in any non-residential district shall constitute a motor vehicle junk yard.

KENNEL. Any place at which there are kept four (4) or more dogs more than four (4) months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LIGHT TRESPASS: The shining of light produced by a light fixture beyond the boundaries of the property on which it is located.

LIVESTOCK. Animals, including but not limited to, domestic animals such as sheep, horses, cattle and goats.

LOT. A parcel of land having defined boundaries.

LOT AREA. The total horizontal area included within lot lines.

LOT DEPTH. The horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT FRONTAGE. That portion of a lot which directly abuts the Right-of-Way line of a dedicated Town, County or NYS Highway.

LOT WIDTH. The distance between side lot lines at the required minimum front yard depth measured; a) along a line parallel to the line connecting the end points of the front lot line, or, b) in the case of a cul-de-sac, along a line parallel to the arc connecting the end points of the front lot line.

LOT OF RECORD. A legally-existing lot at the time of initial adoption of this Local Zoning Law duly filed and recorded in the Rensselaer County Clerk's Office as either an individual parcel of land or part of an approved subdivision.

MANUFACTURING. Any process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged in quantity.

MARINA OR BOAT BASIN. Any premises containing one or more piers, wharves, docks, moorings, bulkheads, buildings, pumping facilities, slips, basins, or land under water designed, used or intended to be used primarily for the docking or mooring of boats for compensation.

MOBILE HOME. A mobile home means a structure, transportable in one (1) or more sections, which is more than eight (8) feet in body width, is more than forty (40) feet in body length in the traveling mode, or contains three hundred twenty (320) or more square feet in interior space when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MOBILE HOME NEIGHBORHOOD. A residential development intended to accommodate mobile homes as defined herein and including various facilities for the service of the residents.

MOTEL. A building or group of buildings containing individual living and sleeping accommodations for hire, 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 variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

MULCHING -- The application of a layer of plant residue or other material for the purpose of effectively controlling erosion.

NET-METERING: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

NON-COMPLYING BUILDING OR USE. An existing building or use which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width or depth, front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit after the enactment or amendment of this Local Law.

NON-CONFORMING USE. A use which does not conform to the applicable use regulations for the district in which said use is located after the enactment or amendment of this Local Law and/or which did not conform to the applicable use regulations for the district in which said use was located under the local law that this local law supersedes or amends. Any use in existence when this local law was enacted which was then a non-conforming use, may continue as a non-conforming use under the terms of this local law. However, any use in

violation of the zoning regulations in effect prior to the enactment of this local law shall not be deemed to be a non-conforming use if not deemed a non-conforming use under the local law superseded by this local law.

NURSERY SCHOOL. Premises which operate on a regular basis to provide daytime care or instruction for five (5) or more children under six (6) years of age. The term nursery school shall include kindergarten, day nursery, day care center and family day care.

NURSING HOME. Premises which provide lodging, meals and continuing nursing care for compensation to convalescent or chronically-ill persons. The term nursing home shall include convalescent home and rest home.

NYISO (NEW YORK INDEPENDENT SYSTEM OPERATOR): NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and non-discriminatory wholesale market for electricity in New York State.

OPEN AREA, REQUIRED. That area of a lot which shall be properly maintained with a combination of natural, not artificial, lawn, trees, shrubs, and other plant material.

PARKING LOT. Land which is open or semi-enclosed by structures and which is used to provide four (4) or more off-street parking spaces.

PARKING SPACE, OFF-STREET. A space which is out of the public right-of-way and is available and adequate for the parking of one (1) motor vehicle.

PERMITTED USE. A specific use to which land, lots, buildings or structures may be used, occupied or maintained under this Local Law as a matter of right.

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

PLANNED DEVELOPMENT. A structure or group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative, and which has certain facilities in common such as yards, open space, recreation areas, garages, and parking facilities.

PLANNING BOARD. The Planning Board of the Town of Schaghticoke.

PRIMARY CONSERVATION AREA The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

PRINCIPAL BUILDING OR USE. The main or primary building or use on a lot.

PROHIBITED USE. Any use which is not listed as a permitted, special or accessory use in the Schedule of Use Regulations shall be considered a prohibited use under this Local Law.

PUBLIC WATER, PUBLIC SEWER. Central sewage disposal and water supply systems accepted by the Town Board for public ownership and operation.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the [Town/City/Village] determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

RESTAURANT/STANDARD. An establishment whose principal business is the sale of food to customers in a ready-to-consume state, and whose principal method of operation includes the following characteristics:

1. Customers, normally provided with an individual menu, area served their food and beverage by a restaurant employee at the same table or counter at which food and beverages are consumed;
2. A cafeteria-type operation where food and beverage generally are consumed with the restaurant building.

RIDING STABLE OR ACADEMY An operation that offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding. A riding academy is not considered to be an agricultural activity.

ROADSIDE STANDS. For the purpose of this Local Law, roadside stands are temporary seasonal structures where produce and other agricultural products are sold.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM: A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

RURAL BUSINESS. Rural business shall mean any retail or public service business, excluding home occupation as defined in this Law, conducted solely on the premises and provided that the principal owns and resides on said premises.

SATELLITE ANTENNA. A satellite antenna is hereby defined to be and include any parabolic dish, antenna, or other devices or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites.

SCHEDULE OF USE REGULATIONS. The controls which enumerate the permitted principal, permitted accessory, and special uses within each of the districts established by this Local Law.

SECONDARY CONSERVATION AREA The area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetational features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

SEDIMENT -- Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion.

SET BACK. The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement except necessary driveways.

SHOPPING CENTER. A tract of land with buildings or structures planned as a whole and intended for one (1) or more establishments for retail, office or allied purposes, on a site of 80,000 square feet or more.

SIGN. Any material, structure or device, or part thereof, composed of lettered or pictorial matter, or logo or a representative three dimensional structure which is located out-of-doors, or on the exterior of a building including illuminated window signs over two (2) square feet in area located within three (3) feet of the window surface and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when same is placed in view of the general public. However, a "sign" shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group.

SIGN, ACCESSORY. A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered up on the premises where the sign is located, or to which it is affixed.

SIGN, ILLUMINATED. A sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign, and including reflective and phosphorescent light.

SIGN, DIRECTLY ILLUMINATED. Any sign designed to give forth any artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign.

SIGN, INDIRECTLY ILLUMINATED. A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere than on a plot where such illumination occurs. If such illumination is thus, visible, such sign shall be deemed to be a directly illuminated sign.

SIGN, NON-ACCESSORY. A sign or structure, including but not restricted to billboards, which directs attention to an idea, product, business activity, service, or entertainment which is primarily conducted, sold, or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

SIGN, OBSOLETE. A sign that advertises a non-existent product, place, or event.

SIGN, SURFACE AREA OF. The entire area within a single, contiguous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be included as surface area of such sign.

SITE PLAN. That map or drawing and related information submitted for review by the Planning Board in accordance with the requirements and procedure specified in Section VII of this Local Law.

SITE PREPARATION -- The activities of stripping, excavation, filling and grading, no matter what the purpose of these activities.

SLOPE -- Land with a topographic gradient, usually expressed as percent slope, the percent being calculated by measuring vertical elevation relative to horizontal distance. A slope of twenty-five percent (25%) means a twenty-five-foot rise in elevation from one point to another along a one-hundred-foot horizontal plane [calculated as: twenty-five-foot rise/one-hundred-foot horizontal distance = twenty-five-percent slope].

SMALL-SCALE SOLAR: For purposes of this Ordinance, the term “small-scale solar” refers to solar photovoltaic systems that produce up to twenty kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT: An easement recorded pursuant to NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT/SYSTEM: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR FARM OR SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sale of electricity.

SOLAR PANEL: A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY: A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS: Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

SPECIAL USE. A use which is deemed desirable for the public welfare within a given district or districts, but which is potentially incompatible with other uses provided therein. The use shall be therefore subject to approval by the Planning Board and to conditions set forth for such use as well as the other applicable provisions of this Local Law.

SPECIAL USE PERMIT. That permit, issued by the Town Planning Board according to the requirements and procedure established by Section VI of this Local Law, authorizing the commencement of a particular Special Use.

STORY. That part of a building, exclusive of cellars but inclusive of basements, comprised between the levels of one finished floor and the level of the next highest finished floor, or if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET. A public or private way which affords principal means of access to abutting properties.

STREET LINE. The dividing line between a lot and a street right-of-way.

STRUCTURE. A static construction of materials, the use of which requires a fixed location on the ground or attachment to an object having such fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, signs, and mobile dwellings.

STRIPPING -- Any activity which removes or significantly disturbs topsoil, trees, brush, grass or other vegetation.

STEEP SLOPE -- Any slope with a topographic gradient of twenty-five percent (25%) or higher.

SWIMMING POOL. Any outdoor pool, tank, depression, or excavation for the specific purpose of swimming that causes the retaining of water to a greater depth than eighteen (18) inches and having a surface of water greater than one hundred (100) square feet.

TOPSOIL -- The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soil.

TOWER. A "Tower" is hereby defined to be and include any tower, pole, windmill, antenna or other structure, whether attached to a building, guyed or free standing, designed to be used for the support of any device for the transmission and/or reception of radio frequency signals, including, but not limited to, broadcast, shortwave, citizen's band, FM or television, microwave, or any wind driven devices, whether used for energy conversion or creation, or not.

TRAILER, CAMPING. A folding structure, mounted on wheels and designed for travel recreation and vacation use.

TRAILER, TRAVEL. A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation, having a body width not exceeding eight (8) feet, and a body length not exceeding thirty-five (35) feet for what is commonly known as a "tow-behind" travel trailer or forty (40) feet for what is commonly known as a "5th wheel" travel trailer.

USE. The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VACATION RESORT. Any area of land on which are located two (2) or more cabins, cottages or a hotel or a group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests, and may contain one (1) or

more dining rooms and recreational facilities of a design and character suitable for seasonal or more or less temporary living purposes.

VARIANCE. A modification of the use and/or area and bulk regulations of this Local Law in an individual case where, due to specific facts and conditions peculiar to a particular property, literal application and strict enforcement would result in undue and unnecessary hardship or practical difficulty that would deprive the owner of a reasonable use of the land or structure. Such unnecessary hardship or practical difficulty shall not be construed to include mere inconveniences or a desire to make more money.

VARIANCE, AREA. A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE. A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

WATERBODY -- Any natural or artificial pond, lake, reservoir or other area containing a surface area of over one thousand (1,000) square feet and which usually or intermittently contains water and has a discernible shoreline.

WATERCOURSE -- Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Schaghticoke, except those which are regulated by the NYSDEC.

WINDMILL. A mill driven by blades turned by the wind.

YARD. An open space on the same lot with a building or building group lying between the closest point of the front, rear, or side wall of a building and the nearest lot line, unoccupied and fully open to the sky, except as otherwise provided by the specific provisions of this Local Law.

YARD, FRONT. A “yard” extending across the principal street side of a lot measured between the side yard lines, the depth of which yard is the minimum horizontal distance between the street line and the main building.

YARD REAR. A “yard” extending across the full width of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building.

YARD, SIDE. A “yard” between any lot line other than a street line or rear lot line, and a line drawn parallel thereto, and between the front and rear yards.

ZONING MAP. The map delineating the boundaries of the Zoning Districts which, along with the Zoning text, comprises this Local Law.

SECTION XIV.

INTERPRETATION AND APPLICATION

- A. **INTERPRETATION, CONFLICT WITH OTHER LAWS.** In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards shall govern.
- B. **SEPARABILITY.** Should any section or provision of this Local Law be decided by courts to be unconstitutional or otherwise invalid, such decisions shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.
- ~~C. **PUBLICATION.** A summary text of this zoning law containing sufficient information as to the substance of the law, a notice that this Local Law has been adopted, and a notice that a complete text of this Local Law is on file in the Town Clerk's office shall be published once, within ten days after adoption, in a newspaper of general circulation in the Town.~~
- ~~D. **EFFECTIVE DATE.** This Local Law shall become effective twenty (20) days after its filing in the office of the Secretary of State of the State of New York in accordance with applicable provisions of the law if ten (10) days have elapsed since summary publication.~~