CHAPTER 112
ZONING

TABLE OF CONTENTS

ARTICLE I
Introductory Provision

§ 112-1. Short title. 112-6
§ 112-2. Authority. 112-6
§ 112-3. Purpose and objective of the chapter. 112-6
§ 112-4. Application of regulations. 112-6

ARTICLE II
Permit and Approval Process

§ 112-5. Review and approval. 112-7

ARTICLE III
Zoning Districts and Map

§ 112-6. Establishment of districts and purposes. 112-12
§ 112-7. Zoning map. 112-14
§ 112-8. Interpretation of boundaries. 112-14

ARTICLE IV
Use Regulations

§ 112-9. Use regulations. 112-16

ARTICLE V
Dimensional Regulations

§ 112-10. Dimensional table. 112-21
§ 112-11. Minimum lot size and density in RA district. 112-23
§ 112-12. Number of principal structures on a lot. 112-23

ARTICLE VI
Supplemental Regulations

§ 112-13. Off-street parking and loading. 112-24
§ 112-14. Home occupations. 112-25
§ 112-15. Veterinary clinics and kennels. 112-26

ARTICLE VI
Supplemental Regulations (Cont.)

§ 112-16. Light industry standards. 112-26
§ 112-17. Accessory structures. 112-27
§ 112-18. Multiple-family dwellings. 112-27
§ 112-19. Assisted living facilities. 112-27
§ 112-20. Fence regulations. 112-28
§ 112-21. Lighting standards. 112-28
§ 112-22. Signs. 112-29
§ 112-23. Manufactured homes. 112-34
§ 112-24. Adult uses. 112-36
§ 112-25. Design guidelines and standards. 112-38
§ 112-26. Regulation of steep slopes. 112-50

ARTICLE VII
Site Plan Review

§ 112-27. Intent and purpose. 112-53
§ 112-28. Applicability. 112-53
§ 112-29. Application procedure. 112-54
§ 112-30. Minor project site plan review application content. 112-55
§ 112-31. Planning Board action for minor projects. 112-55
§ 112-32. Major site plan application content. 112-55
§ 112-33. Planning Board action for major projects. 112-57
§ 112-34. Professional assistance. 112-59
§ 112-35. Project standards. 112-59
§ 112-36. Expiration of approval; extension. 112-60
§ 112-37. Certificate of occupancy; inspections. 112-61

ARTICLE VIII
Planned Development District (PDD) Provisions

§ 112-38. Findings and purpose. 112-62
§ 112-39. Objectives. 112-62
§ 112-40. General requirements for planned development districts (PDD). 112-63
§ 112-41. Planned development district application procedure and approval process. 112-64
§ 112-42. Formal application. 112-66

ARTICLE VIII
Planned Development District (PDD) Provisions (Cont.)

§ 112-43. Planning Board action. 112-67
§ 112-44. Required Planning Board findings. 112-68
§ 112-45. Town Board action. 112-69
§ 112-46. Site plan review of building projects within an established PDD. 112-70
§ 112-47. Subdivision review. 112-71
§ 112-48. Consultant review fees. 112-71
§ 112-49. Conditions to run with land. 112-71
§ 112-50. PDD amendment procedure. 112-72
§ 112-51. Other provisions. 112-74

ARTICLE IX
Conservation Subdivisions

§ 112-52. Purpose and applicability. 112-75
§ 112-53. Conservation subdivision procedures. 112-75
§ 112-54. Conservation analysis. 112-75
§ 112-55. Preliminary and final plat review. 112-77
§ 112-56. Exceptions and waivers from conservation subdivision requirement. 112-77
§ 112-57. Dimensional requirements in conservation subdivisions. 112-78
§ 112-58. Conservation subdivision design guidelines. 112-79
§ 112-59. Professional assistance. 112-79
§ 112-60. Conservation value of open space. 112-80
§ 112-61. Permanent preservation of open Space. 112-80
§ 112-62. Notations on final plat. 112-81
§ 112-63. Ownership of open space land. 112-81
§ 112-64. Maintenance standards. 112-82

ARTICLE X
Special Use Permit Review

§ 112-65. Intent. 112-83
§ 112-66. Application content. 112-83
§ 112-67. Criteria. 112-83
§ 112-68. Site plan approval. 112-84
§ 112-69. Public hearing on special use permit. 112-85
§ 112-70. Planning Board action. 112-85
§ 112-71. Special use permit expiration, revocation and enforcement. 112-86

ARTICLE XI
Nonconforming Uses, Structures and Lots

§ 112-72. Nonconforming uses. 112-87
§ 112-73. Nonconforming buildings and structures. 112-88
§ 112-74. Nonconforming lots. 112-88

ARTICLE XII
Administrative Provisions

§ 112-75. Notice of public hearing. 112-90
§ 112-76. Referral to County Planning Board. 112-90
§ 112-77. Referral to neighboring municipalities. 112-91
§ 112-78. Records to be retained. 112-91
§ 112-79. Assistance to boards. 112-91
§ 112-80. SEQR compliance. 112-92
§ 112-81. Building Inspector. 112-92
§ 112-82. Planning Board. 112-92
§ 112-83. Zoning Board of Appeals. 112-94

ARTICLE XIII
Variances and Appeals

§ 112-84. Variances and appeals. 112-96
§ 112-85. Application. 112-96
§ 112-86. Hearing on appeal. 112-97
§ 112-87. Area variance criteria and standards. 112-98
§ 112-88. Use variances criteria and standards.112-99

ARTICLE XIV
Enforcement

§ 112-89. Complaint; investigation; notice of violation. 112-100
§ 112-90. Hearings. 112-100
§ 112-91. Certificate of compliance. 112-101
§ 112-92. Fines; penalties for offenses. 112-101
§ 112-93. Alternative or additional remedy. 112-102
§ 112-94. Stop-work order. 112-103
§ 112-95. Suspension of administrative review. 112-104
§ 112-96. Misrepresentation. 112-104
§ 112-97. Certificate of compliance/certificate of occupancy. 112-104

ARTICLE XV
Amendments

§ 112-98. Purpose of article. 112-105
§ 112-99. Referrals. 112-105
§ 112-100. Hearing and decision on proposed amendment. 112-105
§ 112-101. Records of amendments. 112-105

ARTICLE XVI
Definitions

§ 112-102. Definitions. 112-106

ARTICLE XVII
Repealer

§ 112-103. Repeal of prior zoning ordinance and inconsistent chapters of town code. 112-123
§ 112-104. Severability. 112-123
§ 112-105. Effective date. 112-123

[HISTORY: Zoning adopted by the Town Board of the Town of New Baltimore 10-11-1977 and subsequently amended. Prior Ordinance repealed and replaced by Local Law 4 of 2008 adopted by Town Board on 11-10-2008, which was then repealed and replaced by Local Law 4 of 2016 adopted by the Town Board on November 14, 2016. Subsequent amendments noted where applicable.]

ARTICLE I
Introductory Provision

§ 112-1. Short title.

This chapter shall be known as the "Town of New Baltimore Zoning Code."

§ 112-2. Authority.

Enactment of this chapter by the Town is pursuant to Article 16 of the Town Law of the State of New York.

§ 112-3. Purpose and objective of the chapter.

The purpose of this chapter is to broadly protect the public health, safety, and welfare of the residents of the Town of New Baltimore and to protect their property through the land use regulations under the authority of the New York State Town Law and in accordance with the Town of New Baltimore Comprehensive Plan.

§ 112-4. Application of regulations.

Except as hereinafter provided, no new building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with this chapter.

ARTICLE II
Permit and Approval Process

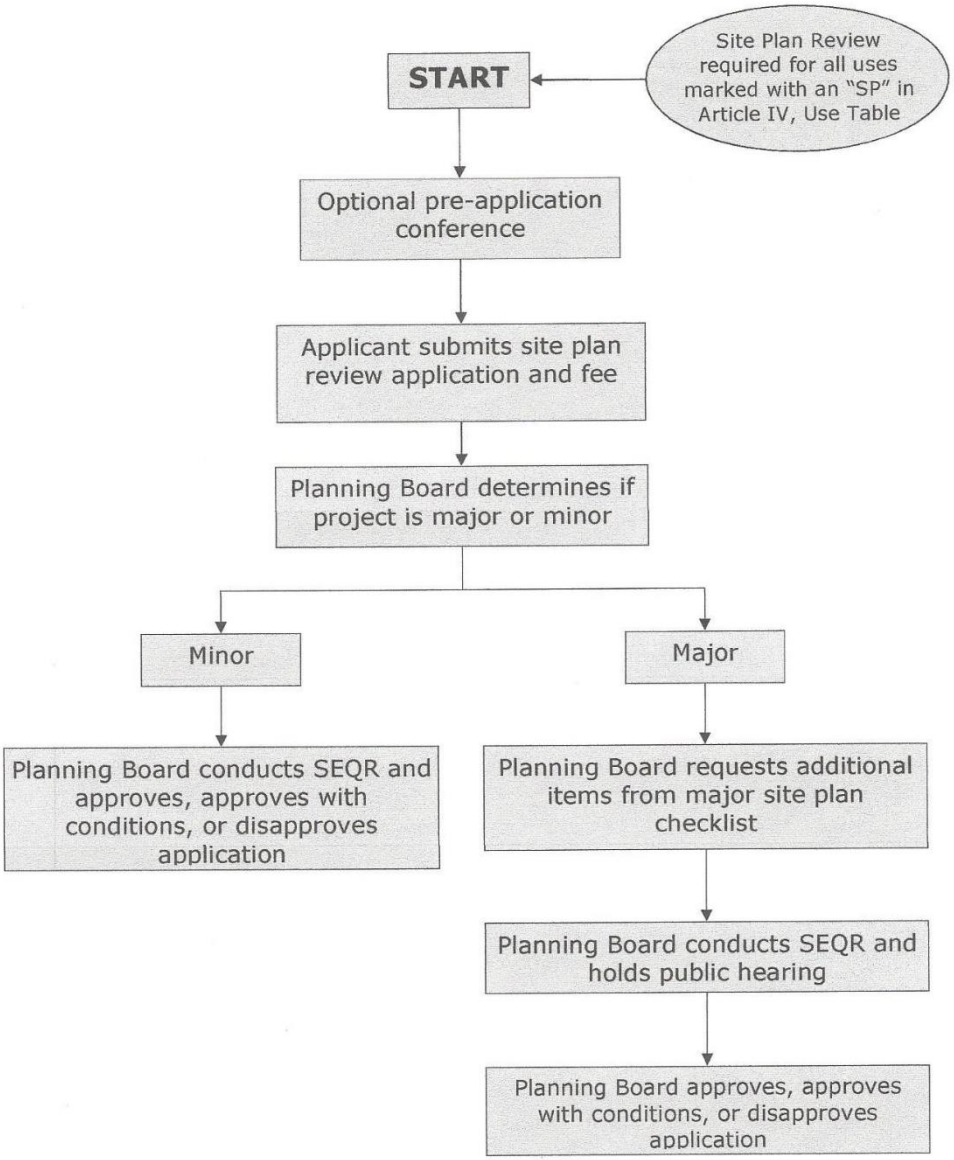
§ 112-5. Review and approval.

A. Approval Required - No development may be commenced within the Town prior to the issuance of the relevant permit or approval.

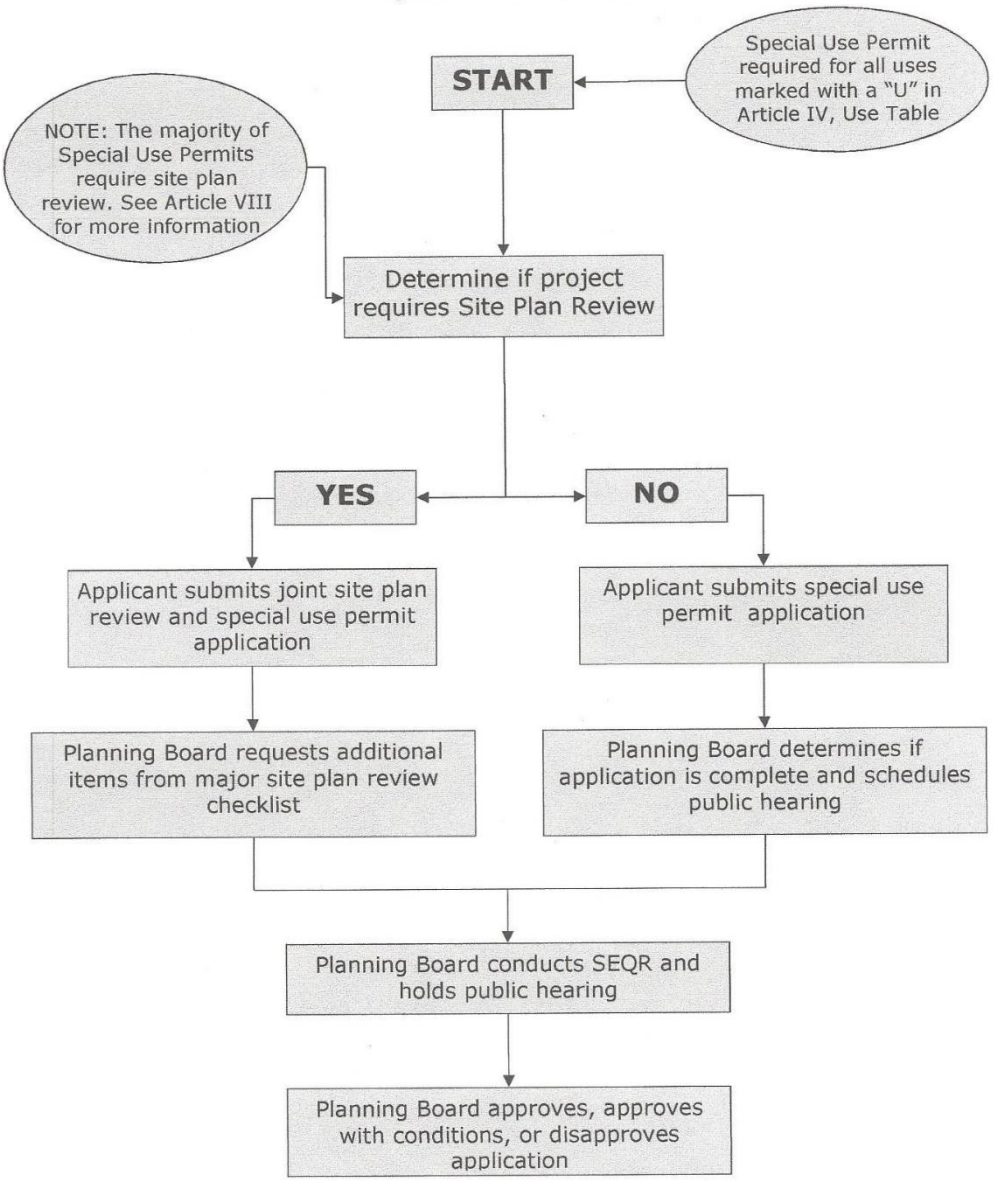
B. Types of Approval

(1) SITE PLAN REVIEW -- All site plan review applications shall be subject to the Site Plan Review provisions of Article VII.
(2) SPECIAL USE PERMITS -- All special use permit applications shall be subject to the Special Use Permit provisions of Article X and may be subject to the Site Plan Review provisions of Article VII.
(3) SIGN PERMIT – All sign permit applications shall be subject to the sign regulations contained in Article VI, Supplemental Regulations.
(4) PLANNED DEVELOPMENT DISTRICT – All Planned Development District applications shall be subject to the provisions of Article VIII.
(5) VARIANCES – All area and use variances shall be subject to the provisions of Article XIII.

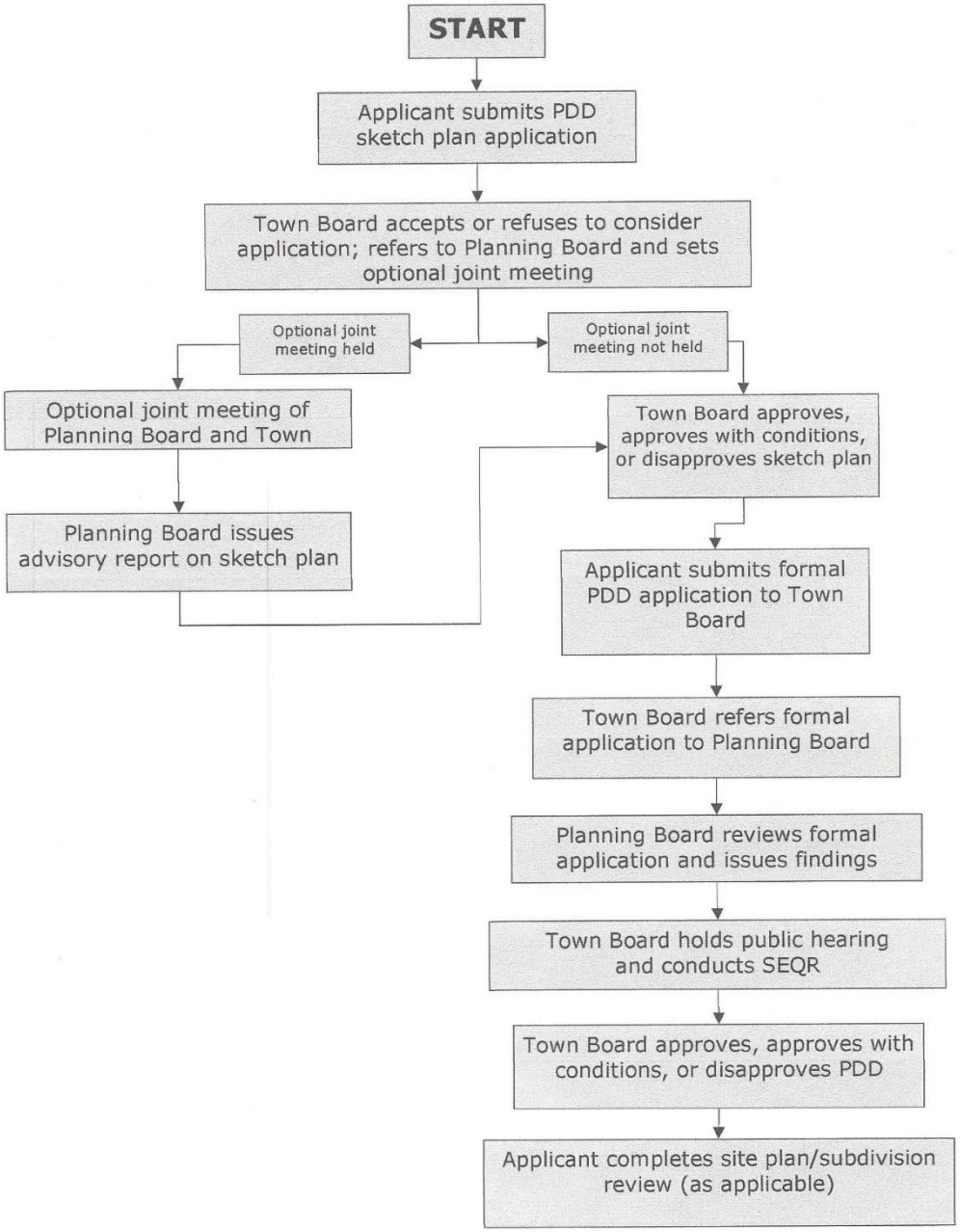
Site Plan Review



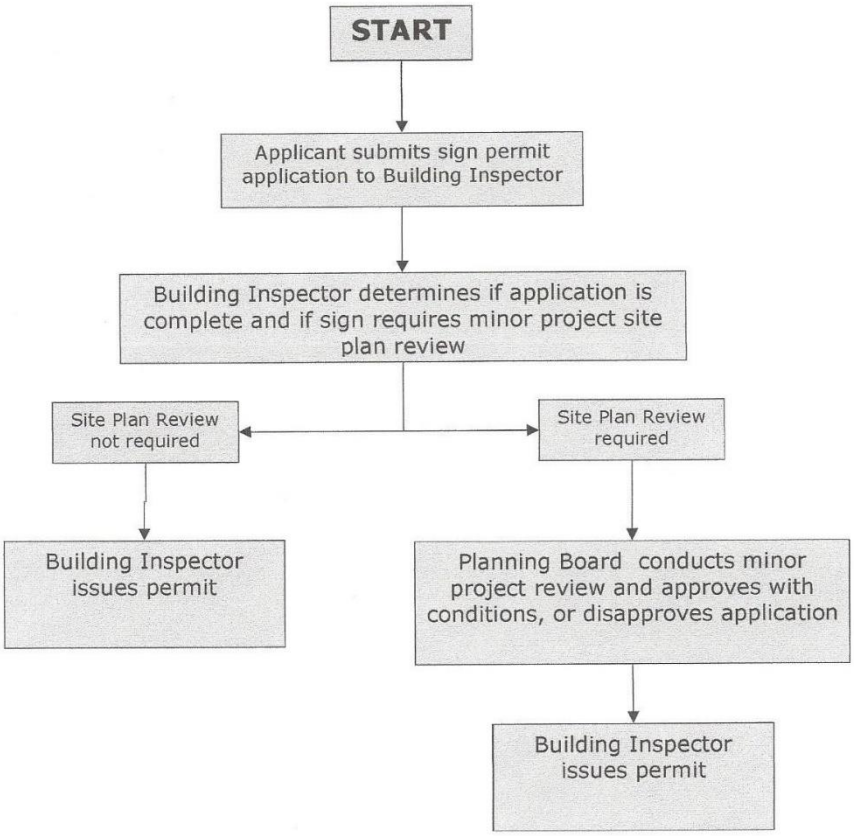
Special Use Permit



Planned Development District



Sign Permit


START
Applicant submits sign permit application to Building Inspector
Building Inspector determines if application is complete and if sign requires minor project site plan review
Site Plan Review not required
Site Plan Review required
Building Inspector issues permit
Planning Board conducts minor project review and approves with conditions, or disapproves application
Building Inspector issues permit

ARTICLE III
Zoning Districts and Map

§ 112-6. Establishment of districts and purposes.

The zoning districts established by this chapter shall be as follows:

A. RA – Rural Residential/Agricultural District

The Rural Residential/Agricultural District comprises most of the town. With some exceptions, the land conditions are characterized by poor drainage, impermeable soil, rock outcroppings and steep slopes. There is little likelihood of ever serving this district with public water or sewer.

The present nature of the town is rural, with a few farms, and many residents who do some farming, i.e. raise horses, chickens, cows, garden, etc.

No central commercial area has really been developed, but there are some small pockets in this zone which historically were home to small businesses. Development of some small businesses along state and county highways in this zone should not be discouraged, but it should be permitted in such a way as to blend with the location and surrounding land uses. By using a special permit process, neighbors can be given a say at a public hearing about the proposed commercial use. Consideration can be given to building design, landscaping, traffic problems, signs, and parking.

B. C -- Commercial

The Route 9W corridor contains the majority of the commercial enterprises in the town. Some of the area is now served by public water or can be served by public water in the near future. This area is characterized by a major state highway, NYS Route 9W, railroad access, and proximity to a New York State Thruway exchange.

Because of the potential for development of this area to provide a tax base and employment, these areas should be given special consideration for encouraging commercial development there.

C. HR – Hamlet Residential

These areas are characterized by already densely developed land with steep slopes and poor drainage, and the presence of a National Historic District. Restoration of existing buildings should be encouraged, because these areas are built out.

D. D - Developmental District
Industry or large-scale commercial uses should be encouraged because of the excellent access to roads and the possibility of service by nearby water and sewerage facilities.

E. DMR – Development/Multifamily Residential District
Multifamily residential and/or large-scale commercial uses should be encouraged due to the road access and the potential for service from nearby water and sewerage facilities. Industrial uses should also be allowed.

F. IND – Industrial

This district is located along Route 9W in the north end of town in an area with a high concentration of existing local industrial type businesses. The intent is to continue to allow such uses in this area, as a way to encourage local business development in a manner consistent with the existing character of the area.

§ 112-7. Zoning map. [Amended 10-10-2016 by L.L. No. 4 of 2016]

The above districts are shown on the Official Zoning Map of the Town of New Baltimore, adopted by the Town Board, which is herewith and which is in all respects part of this chapter.[1]

§ 112-8. Interpretation of boundaries. [Amended 1-05-2009 by L.L. No. 2 of 2009]

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

A. Boundaries for the northern Hamlet Residential District are as follows:

(1) North: the Albany-Greene County Line
(2) South: South Main Street, at a distance of 2,250 feet southeast of the intersection of South Main Street and Church Street, as measured along the center line of South Main Street: then due east to the Hudson River.
(3) East: the Hudson River
(4) West: the Albany-Greene County line at a distance of 500 feet west of Route 144; then southerly to Madison Avenue, at a distance of 1,000 feet west of the intersection of Madison Avenue and Route 144, as measured along the center line of Madison Avenue; then southwesterly to a distance of 200 feet north of that point of the center line of New Baltimore Road which is 900 feet west of the intersection of New Baltimore Road and Baldwin Terrace, as measured along the

center line of New Baltimore Road; then southerly to New Baltimore Road, at a distance of 900 feet west of the intersection of New Baltimore Road and Baldwin

1 Note: The Zoning Map is on file in the town offices and available for inspection during regular office hours.

Terrace as measured along the center line of New Baltimore Road; then southerly to a distance of 500 feet northwest (as measured by a line which is perpendicular to Route 144) of that point of the center line of Route 144 which is 1,100 feet southwest of the intersection of Route 144 and Baldwin Terrace, as measured along the center line of Route 144; then southeasterly to South Main Street, at a distance of 2,250 feet southwest of the intersection of South Main Street and Church Street, as measured along the center line of South Main Street.

B. Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.

C. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.

D. Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.

E. Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.

F. Where district boundaries are not indicated as approximately following the items above, or is not designated on the Zoning Map, the boundary line shall be determined by the use of the scale designated on the Town Zoning Map.

G. In the event that none of the above rules are applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

ARTICLE IV
Use Regulations

§ 112-9. Use regulations.

A. Permitted uses.

All uses listed shall be permitted in the zoning district where the use is listed, provided that all other requirements of this chapter are met. All permitted uses are indicated in the table below with “P”. All permitted uses requiring Site Plan Review are indicated with “S”. All permitted uses requiring a Special Permit are indicated with “U”.

B. Prohibited uses.

Any use not listed in the following table is deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere by this chapter or a use variance is granted in accordance with the provisions of this chapter.

C. Permitted accessory uses.

All uses permitted for each district shall be permitted as accessory uses provided the combination of uses shall meet all of the other provisions of this chapter.

Uses	District				
	RA	C	IND	HR	DMR/D
Dwellings, Multi family		U/S			U/S
Dwellings, Single and family/modular	P	P		P	
Agricultural/ field crops	P	P		P	P
Agricultural/ livestock	P				
Agricultural / personal accessory	P	P		P	P
Agricultural/ sales and services	U/S	S		S	S
Art Gallery	U/S	S		S	S
Assisted Living Facility		S			
Automobile repair	U/S	S	S		
Automobile service stations	U/S	S	S		
Automobile rental or sales		S	S		
Boat storage, commercial	U/S	S	S		
Campgrounds	U/S	S			
Car Washes		S	S		S
Cemetery	U/S				
Commercial Horse Boarding	P	P			P
Commercial Vehicle Repair		U/S	S		
Community Facilities	U/S	S	S	U/S	S
Contracting business	U/S	S	S		
Day Care Center	U/S	S		U/S	S
Entertainment, Adult business			U/S		
Equipment Repair and or Rental	U/S	S	S		S
Extraction, private	P	P	P	P	P
Funeral Home		S			S
Game preserves	P	P			P
Home Occupations	P	P	P	P	
Kennels	U/S	U/S	U/S		
Laundromats		S	S		
Lodging Motels/Hotels		S			

Lodging/ bed and breakfast	P	S		U/S	
Lodging/ Inns	U/S	S			
Lumber Yards	U/S	U/S			
Marina	U/S				

Uses	District				
	RA	C	IND	HR	DMR/D
Nursery	S	S		S	
Offices, Professional		S	U/S	S	
Offices, Medical		S	U/S		
Personal Service Establishments		S			
Places of Worship	S	S		S	
Recreation, Club	S	S		S	
Recreation, firing ranges, outdoor	U/S				
Recreation, indoor		S			S
Recreation, open space	S	S			
Restaurants, drive- thru		S	S		S
Restaurants, full service	U/S	S	S	U/S	S
Retail, General		S			S
Retail, neighborhood	U/S	S	S	U/S	S
Retail, service	U/S	S	S	U/S	S
Riding Academies	S	S			S
Roadside stand	P	P	P	P	P
Taverns	S	S			
Telecommunication towers	U/S	U/S	U/S	U/S	U/S
Theaters		S			S
Veterinary clinics and hospitals	S	S			
Windmills	S	S	S	S	S
Cold Storage		S	S		S
Distribution Center		U/S	S		S
Fuel distribution		U/S	U/S		S
Fuel storage		U/S	U/S		S
Industrial Services		S	S		S
Light manufacturing		S	S		S
Office Park		S	S		S
Research and development		S	S		
Self-storage		S	S		
Truck Terminals		S	S		S
Warehousing		S	S		

P = Permitted Use
S = Use Permitted through Site Plan Review
U = Use Permitted through Special Permit Use
= Use Not Permitted in this district

ARTICLE V
Dimensional Regulations

§112-10. Dimensional table.

District	Minimum Density	Minimum Lot Size	Minimum Lot Width (ft)	Minimum Lot Depth (ft)	Min. setback Front	Min. setback Rear	Min. setback Side	Max Bldg. Height	Max % Lot Coverage
Rural Residential/ Agricultural-Primary (RA)	2 acres	See B. on next Page	80	250	60	25	25	35	20
Rural Residential/Agricultural-Accessory (RA)	--	--	--	--	40	15	15	35	--
Commercial and Industrial	--	0.5 acres[1]	150	100	50	15	15	35	30
Hamlet Residential—Primary (HR)	0.5 acres[2]	0.5 acres[3]	60	100	15[4]	15	15	35	50
Hamlet Residential—Accessory (HR)	--	--	--	--	15	15	15	35	--
Development (D)	--	1 acre[5]	50	150	80	20	50	35	50
Development/ Multi-Family Residential (DMR)	--	1 acre[6]	50	150	80	20	50	35	50

[1] With public water or sewer. Without public water or sewer the minimum lot size is 2 acres.
[2] With public water or sewer. Without public water or sewer the minimum lot size is 2 acres.
[3] With public water or sewer. Without public water or sewer the minimum lot size is 2 acres.
[4] Or average footage immediately surrounding properties.
[5] With public water or sewer. Without public water or sewer the minimum lot size is 2 acres.
[6] With public water or sewer. Without public water or sewer the minimum lot size is 2 acres.

19

THIS PAGE INTENTIONALLY LEFT BLANK

§ 112-11. Minimum lot size and density in RA district.

A. Density Calculation. The maximum potential density of a parcel shall be determined by dividing the gross acreage of the parcel by the density as set forth on the dimensional table.

The resulting density is the maximum number of lots which may be proposed, not a guarantee of development potential. The maximum number of lots may be affected by on-site conditions, such as constrained land, or by the feasibility of providing water, sewerage, or other infrastructure to the units.

B. Minimum Lot Size.

(1) Conservation Subdivisions. There shall be no minimum lot size in conservation subdivisions, except as required to fulfill setback requirements for the State Department of Health regarding wells and septic systems, as required in Article IX.

(2) Conventional Subdivisions. Minimum lot sizes for conventional subdivisions in the RA district shall be 2 acres.

§ 112-12. Number of principal structures on a lot.

A. In all districts, only one single- or two-family building may be located on each lot.

B. In all districts, more than one non-residential building may be placed on a lot, such that the maximum lot coverage for the district is not exceeded.

ARTICLE VI
Supplemental Regulations

§ 112-13. Off-street parking and loading.

A. Off-street parking shall be provided as follows.

Uses	RA	C and IND	HR	D	DMR
RESIDENTIAL USES					
Dwellings, Manufactured Homes	2/unit				
Dwellings, Multiple Family		1/unit			1/unit
Dwellings, Single and Two-Family	2/unit		2/unit		
COMMERCIAL USES					
Agriculture, Field crops	None	None	None	None	None
Agriculture, Livestock	None	None		None	None
Agriculture, Personal Accessory	None	None		None	None
Agriculture, Sales and Service	Per SPR	Per SPR		Per SPR	Per SPR
Art Gallery	1/500 GLA	1/500 GLA	1/500 GLA	1/500 GLA	1/500 GLA
Assisted Living		Per SPR			Per SPR
Automobile repair		Per SPR			
Automobile Service Stations		Per SPR		Per SPR	Per SPR
Automobile rental or sales		Per SPR			
Boat Storage, commercial	1/1,500 GLA	1/1,500 GLA			
Campgrounds	Per SPR	Per SPR			
Car Washes		Per SPR			
Cemetery	Per SPR				
Commercial Horse Boarding	None	None		None	None
Commercial Vehicle Repair		Per SPR			
Community Facilities	1/1,000 GLA	1/1,000 GLA	1/1,000 GLA	1/1,000 GLA	1/1,000 GLA
Contracting Business	Per SPR	Per SPR			
Day Care Center	1/ 5 clients + 1/ employee	1/ 5 clients + 1/ employee			
Entertainment, Adult Business		Per SPR			
Equipment Repair and Rental	Per SPR	Per SPR	Per SPR	Per SPR	Per SPR
Extraction, Private	None	None	None	None	None
Fuel Distribution		Per SPR		Per SPR	Per SPR
Fuel Storage		Per SPR		Per SPR	Per SPR
Funeral Home		1/ 5 seats			
Game Preserves	1/ employee	1/ employee			1/ employee
Home Occupations	1/ employee	1/ employee	1/ employee		
Kennels	1/ 10 boarders	1/ 10 boarders			
Laundromats		Per SPR			
Lodging, Motels/ Hotels		1/ room + 1/ 2 employees		1/ room + 1/ 2 employees	1/ room + 1/ 2 employees
Lodging, Bed and Breakfast	1/ guest +2	1/ guest +2	1/ guest +2		
Lodging, Inns	1/ room + 1/ 2 employees	1/ room + 1/ 2 employees			
Lumber Yards, Sawmills	Per SPR			Per SPR	Per SPR

Marina	1/ slip + 1/ employee		1/ slip + 1/ employee		
Nursery	Per SPR	Per SPR			
Offices, Professional		1/500 GLA			
Offices, Medical		1/employee + 2/treatment room			
Personal Service Establishments		Per SPR			
Places of Worship	Per SPR	Per SPR	Per SPR		
Recreation, Club	Per SPR	Per SPR		Per SPR	Per SPR
Recreation, Firing Ranges	Per SPR				
Recreation, Indoors		Per SPR		Per SPR	Per SPR
Recreation, open space	Per SPR	Per SPR			
Restaurants, Drive- Thru		1/100 GLA		1/100 GLA	1/100 GLA
Restaurants, Full Service	1/100 GLA	1/100 GLA	1/100 GLA	1/100 GLA	1/100 GLA
Retail, General		1/200 GLA		1/200 GLA	1/200 GLA
Retail, Neighborhood	Per SPR	1/200 GLA	Per SPR	1/200 GLA	1/200 GLA
Retail, Service	Per SPR	1/ 200 GLA		1/200 GLA	1/200 GLA
Retail, Shopping Center		1/200 GLA		1/200 GLA	1/200 GLA
Riding Academies	Per SPR	Per SPR		Per SPR	Per SPR
Roadside Stand	2 per stand	2 per stand	2 per stand	2 per stand	2 per stand
Taverns		¼ seats			
Telecommunications Towers	None	None	None	None	None
Theaters		1/5 seats		1/5 seats	1/5 seats
Veterinary Clinics/ animal hospitals		1/ employee + 2/ treatment room			
Windmills	None	None		None	None
LIGHT INDUSTRIAL USES					
Cold Storage		Per SPR		Per SPR	Per SPR
Distribution Center				1/ employee	1/employee
Industrial Services		Per SPR		Per SPR	Per SPR
Light Manufacturing		1/ employee		1/ employee	1/ employee
Office Park		Per SPR		Per SPR	Per SPR
Research and Development		Per SPR		Per SPR	Per SPR
Self-storage		Per SPR			
Truck Terminals				Per SPR	
Warehousing		1.5 / 1,000 GLA		1.5 / 1,000 GLA	1.5 / 1,000 GLA

B. Public or Shared Parking. The Planning Board shall have the authority to vary the above standards to allow public or shared parking to be counted towards the minimum parking requirements. In varying the standards set above, the Board shall have a reasonable basis given the conditions and context of the proposed project, and shall state the basis for the decision to allow public or shared parking in the site plan approval.

C. Off-street loading shall be required for all commercial and light industrial uses.

§ 112-14. Home occupations.

A. Home occupations are permitted as indicated in the Use Table, subject the following criteria and standards.

B. All home occupations shall:
   (1) Be conducted by a resident of the lot;
   (2) Be compatible with the other uses allowed in the district;
   (3) Maintain the character of the neighborhood;
   (4) Ensure the peace, privacy, quiet, and dignity of the area; and
   (5) Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.

C. Home occupations shall be conducted in a manner which does not give the outward appearance of a business.

D. Home occupations shall be conducted within the home or accessory structure. Such use shall not alter the external appearance from a residential character.

E. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. The space occupied by the home occupation itself does not necessarily have to be located in the habitable area of the dwelling unit.

F. Home occupations shall have no more than two (2) non-resident employees.

§ 112-15. Veterinary clinics and kennels.

A. Performance Criteria.
   (1) Adequate landscaping and/or fencing shall be provided to create a visual, sound, and odor buffer between such facility and adjacent properties.
   (2) All animal and medical wastes shall be disposed of in a sanitary and environmentally safe manner, consistent in all respects with all state and federal requirements. On-site incineration must be in compliance with all state and federal requirements.
   (3) No burial site shall be located closer than 100 feet to any lot line, nor shall any such site be within 200 feet of any residence, stream, water body, or source of private or public water supply, and must comply with all state and federal requirements.

B. Setbacks.
   (1) All veterinary clinics, animal training facilities, animal hospitals, and kennels with unenclosed exercise pens or kennels shall be located no closer than 150 feet to any adjoining property line.

(2) All veterinary clinics, animal training facilities, animal hospitals, and kennels with enclosed exercise pens or kennels shall be located no closer than 75 feet to any adjoining property line.

§ 112-16. Light industry standards.

A. In addition to any and all other applicable provisions of this chapter, light industrial uses shall:
   (1) Not store materials outside of any structure, unless screened from public view by opaque fencing or vegetative buffers.
   (2) Conduct all activities associated with the industry in an enclosed structure.
   (3) Not store or manufacture hazardous materials, as defined by the State of New York.
   (4) Not undertake any process that is or will become noxious or offensive due to the emission of noise, smoke, dust, odors, gas or light.

B. For all Industrial Services and Research and Development uses in the LC and SC zones, the maximum gross floor area shall be 15,000 square feet.

§ 112-17. Accessory structures.

A. Applicability. The requirements regarding accessory structures apply to non-residential or non-agricultural uses and lots only.

B. Accessory structures larger than 1,500 square feet of Gross Floor Area are subject to Site Plan Review.

C. All accessory structures shall comply with the dimensional requirements for the zone in which it is located.

§ 112-18. Multiple-family dwellings.

A. Lot requirements
   (1) A minimum lot size of three acres is required for all multifamily developments.
   (2) Density of development over the entire site shall not exceed 8 units/acre with public water and sewer, or 4 units/acre without water and sewer.
   (3) No building or structure will be located closer than 30 feet to the edge of pavement of any public street or roadway.
   (4) No building or structure will be located closer than 40 feet to any side or rear property line.

(5) No building or structure will be located closer than 20 feet to the edge of the pavement of any interior access drive, except where such drive is designed for loading or maintenance purposes.

(6) No building or structure will be located closer than 30 feet to any other building or structure.

B. Building Requirements

No apartment or other multifamily dwelling unit will be constructed which contains less than 500 square feet of net floor area.

§ 112-19. Assisted living facilities.

Density of development for Assisted Living facilities shall not exceed 20 units/acre in any Zoning district.

§ 112-20. Fence regulations.

A. Fences shall be permitted without a principal use and may be located within setbacks.

B. The finished side of the fence shall face neighboring properties or the street.

C. Fences and walls shall not encroach on any public right-of-way.

§ 112-21. Lighting standards.

A. General. No lights shall be installed, located, or aimed so as to cause a danger or hazard to public safety or nuisance.

B. Outdoor lighting for commercial uses, structures, and lots shall meet the following criteria and standards. These standards do not apply to residential or agricultural uses, structures, or lots.

(1) Light levels at property line shall not exceed 0.1 footcandles.

(2) Spotlights shall be aimed and/or shielded to reduce glare and prevent light trespass on to neighboring properties.

(3) No light shall be emitted from the source in an upward direction. All lights shall conform to the standards for cutoff fixtures, as set by the Illuminating Engineering Society of North America (IESNA).

(4) Public spaces and sidewalks shall feature pedestrian-scaled lighting. Poles shall be no higher than 14’.

(5) Parking lot light poles shall be no higher than 20’.

§ 112-22. Signs.

A. General Provisions

Permit Required. Except as specifically exempted or prohibited herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the town or cause the same to be done without first obtaining a sign permit for each sign.

These directives shall not be construed to require any permit for a change of copy of any sign, provided that the person, place, establishment, business or service identified remains the same, nor the repainting, cleaning and the normal maintenance or repair of the sign or sign structure for which a permit has previously been issued under this chapter, so long as the sign or the sign structure is not modified in any way.

(1) The sign size limits in this chapter are maximums and may be reduced during the site plan approval process by the Planning Board.
(2) No permanent sign, other than an official traffic sign, shall be erected within the right-of-way of any public street or highway.
(3) No sign shall be permitted which causes a traffic, health or safety hazard or creates a nuisance due to its placement, display or manner of construction. No sign shall be located so as to obstruct views of traffic.

B. Exempt signs. Signs which do not require a permit are as follows:
(1) Residential identification or street number identification and house number identification.
(2) Home occupation signs, one (1) sign not to exceed six (6) square feet in area.
(3) Private meeting halls.
(4) Temporary signs, including but not limited to garage sale, political, and real estate signs, not to exceed six (6) square feet, which are removed within five (5) days after the associated event has concluded
(5) "No trespassing" signs and Posted signs ("no hunting, fishing or trapping").
(6) Utility line identification and location signs.
(7) Rest room signs.
(8) Handicapped parking and access signs.
(9) "Vacancy/no vacancy" signs which do not exceed three square feet.
(10) Accessory signs identifying such uses as "parking," "no parking" or "office," "Open/Closed" business signs, fuel signs, or banners, flags which do not exceed two square feet each.
(11) Holiday decorations erected for and during the particular holiday they relate to or symbolize.

(12) Official public information signs, memorial signs, building names, erection dates or similar information cut into masonry or other permanent surface or constructed of bronze or other noncombustible material, not to exceed sixteen square feet.

(13) Signs associated with a primary agricultural use.

(14) Non-commercial Signs, including, but limited to, historical tablets, memorial plaques, transportation signs, “No Trespassing” signs, or bulletin boards customarily incidental to places of worship, libraries, governmental agencies, museums, social clubs or societies.

C. Prohibited signs.

(1) Abandoned signs.

(2) Roof signs.

(3) Rotating signs.

(4) Projecting signs that project more than four feet from the structure to which they are attached.

(5) Animated signs except public service information and as set forth below in accordance with paragraph G of this section.

(6) A-Frame signs (that are left in place permanently).

(7) Any sign or part thereof on a vehicle parked on a public right-of-way, on public property or private property so as to be intended to be viewed from a motorized vehicular public right-of-way, which has for its basic purpose the providing of advertisement of products or directing people to a business or activity located on the same or nearby property or 'any other premises. This subsection is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle, or signs that are part of a vehicle such as a construction trailer, whose primary purpose is not advertising to the public right-of-way.

(8) Any sign other than a permitted sign placed on any curb, sidewalk, hydrant, utility pole or tree.

(9) Any sign erected or maintained which might be confused with any traffic control device or which might interfere with the vision or discernment of any traffic sign or which might cause danger to public travel.

(10) Any sign not properly maintained, such as, but not limited to, signs that are structurally unsound or are hazardous or unsafe.

D. Non-conforming signs.

(1) Signs in existence prior to adoption of this chapter which do not conform to the requirements contained herein are deemed non-conforming signs.

(2) Amortization. Signs in existence at the date of adoption of this chapter which do not conform to the provisions herein for the number of signs allowed on a parcel, and which are not otherwise regulated by the provisions of §74-c of the NYS General Municipal Law or §88 of the NYS Highway law, shall be discontinued and removed on or before five (5) years from date of adoption of this chapter, and

the failure to discontinue or remove such nonconforming signs on or before the aforesaid date shall constitute a violation of the provisions of this chapter.

(3) All other signs nonconforming due to the size, location, material, or other respect not addressed above may be maintained, but if any major change, modification, structural repair or replacement thereof is hereafter made, such sign shall thereafter conform to the provisions herein, provided that a legal nonconforming sign may not be replaced by another nonconforming sign.

E. Construction.

(1) All sign fabrication, erection and attachment shall conform to the requirements of the latest edition of the New York State Uniform Fire Prevention and Building Code and other applicable chapters and regulations.

(2) Transformers, wires and similar items shall be concealed.

(3) All signs, sign finishes, supports and electrical work shall be kept in good repair and safe condition, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign.

F. Illumination.

All signs permitted pursuant to this chapter shall comply with the following requirements:

(1) Illumination of signs shall be accomplished by means of shielded light sources, or in such other manner that no glare shall extend beyond the property lines of the property upon which such signs are located, and no glare shall disturb the vision of passing motorists or constitute a hazard to traffic.

(2) All lights associated with signage shall conform to the standards for cutoff fixtures, as set by the Illuminating Engineering Society of North America (IESNA).

(3) No flashing, non-constant or moving light sources shall be permitted or constitute a part of any sign, with the exception of public service information signs.

G. Digital Sign Standards

(1) Purpose and intent. More businesses desire to utilize advancements in technology which permit signs to change copy electronically (e.g., using an LED type of sign). These newer technologies pose additional risks of impacting adjacent areas and adversely dominating the environment in which they operate unless regulated in a reasonable fashion. The intent of this article is to establish operating standards and regulations for signs which utilize these newer technologies, other than billboards which are regulated separately by the Town ship, in order to minimize the secondary effects that often accompany the unregulated display of digital signs, preserve the character and repose of adjacent areas (with a principal focus on residential neighborhoods), protect property values, and reduce traffic hazards caused by undue distractions.

Additionally, these newer technologies exacerbate the potential impact of a billboard in terms of adversely dominating the environment in which they operate due to

light spillover and light pollution, unless regulated in a reasonable fashion, The intent of this section is to establish size, location and operating standards and regulations for billboards, including addressing those utilizing these newer technologies, in order to minimize the secondary effects that can accompany the unregulated display of these types of signs, preserve the character and repose of adjacent areas (within a principal focus on residential neighborhoods), protect property values in all areas of the Town, and reduce traffic and similar hazards caused by undue distractions.

(2) Display.

(a) A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less.

(b) A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article.

(c) The maximum brightness levels for digital signs, other than a digital billboard shall not exceed .2(two tenths) foot-candles over ambient light levels measured within 150 feet of the source, consistent with the terms of this section. Certification must be provided to the Town demonstrating that the sign has been present to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Town in its reasonable discretion, at the permitee's expense, to ensure that the specified brightness levels are maintained at all times.

(d) Brightness of digital signs shall be measured as follows:

(i) At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

(ii) The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

(iii) If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.

(e) Other Requirements. The use, size and location of digital signs, other than digital billboards, must comply with all other relevant laws, regulations and ordinances of the Town.

(3) Digital Billboards General requirements.

(a) Surface Display Area; Measurement. The maximum allowable surface display area for a digital billboard is 300 square feet.

(b) Appearance. Under no circumstances may any type of billboard contain a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin or twist or make other comparable movements.

(c) Display.

(i) The display or message on a digital billboard, of any type, may change no more frequently than once every eight seconds, with a transition period of one second or less.

(ii) The digital billboard must have installed an ambient light monitor which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with terms of this Ordinance.

(iii) Maximum brightness levels for digital billboards shall not exceed .2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration shall be annually required by the Town, in its reasonable discretion, at the permitee's expense to ensure that the specified brightness levels are maintained at all times.

(iv) Brightness of digital billboards shall be measured as follows:

a. At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

b. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

c. If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.

H. Sign permit.

(1) Permit Process. All sign permit applications shall be made to the building inspector.

(2) Within 10 business days after receipt of a complete application by the Building Inspector, a sign permit shall be issued, provided that the proposed sign meets all requirements of this chapter.

(3) If a sign authorized by a permit is not completed and in place within one year from the date the permit was issued, said permit shall become null and void, except that the Building Inspector may grant one extension for a period not to exceed one year.

(4) Design, size, construction and placement of a sign shall not deviate from the plans approved for issuance of the permit.

(5) After the issuance of a permit for a sign under this chapter and within 10 days after the installation of such sign, the applicant shall submit a photograph of the sign as completely installed, which shall be filed with the original application.

(6) Contents of application.

(a) Application for a sign permit shall be made, in writing, by the owner, lessee, occupant or agent for whom the sign is intended and shall be accompanied by two sets of plans of the design.

(b) Sign plans shall include size.

(c) Two plot plans of the parcel on which the sign is to be placed shall be submitted, delineating property lines, street lines, building locations, parking areas, location of all other signs on the parcel, exact location of the proposed sign, including dimensions of setbacks from property lines, and any obstructions in relation to the designated location of the proposed sign. Where a parcel has more than one frontage, the primary frontage shall be designated on the plan with other frontage noted.

(d) Sign plans shall include a statement that the proposed sign as shown on the plan is structurally sound and will withstand wind loads as prescribed by the New York State Uniform Fire Prevention and Building Code. Plans shall bear the signature of the owner, applicant or the person responsible for design of the sign.

(e) The application shall be made to the Building Inspector or on forms prescribed and provided by the Town. At the time of filing the application, the applicant shall pay the required fee in accordance with the fee schedule in effect.

(7) Coordination with Site Plan Review.

(a) Applicants for Site Plan Review projects shall submit details regarding the size, location, materials, and design of associated signage as part of the Site Plan Review application package.

(b) The signage shall be approved by the Planning Board, which may integrate conditions for the size, colors, location, design, or materials of the signage into the Site Plan Review approval.

(c) The building inspector shall issue only those sign permits which comply fully with the approved site plan review package, including any conditions set by the Planning Board.

(d) Sign permits for signs associated with site plan review uses, which were not previously approved by the Planning Board, shall require minor project review according to Article VII of this chapter before a permit may be issued.

I. Measurement of sign display area.

(1) The area of a sign shall be computed from the algebraic sum of the actual sign configuration, be it a square, rectangle, circle, oval or other polygon shape. The area shall be measured from the outer dimensions of the frame, trim, or molding by which the sign is enclosed, where such features exist, or from the outer edge of the signboard where none exist.

(2) When a sign consists of individual letters, symbols or characters, or where the overall shape of the sign is irregular, the area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols, characters or sign area. (Fig. 1)

(3) Only one (1) side of double faced signs shall be measured when determining the area.

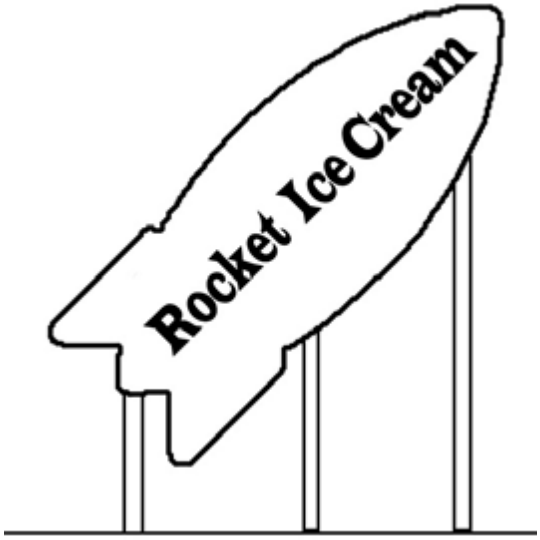


Figure 1

J. Sign Removal

(1) Any new sign or temporary sign which does not comply with the regulations established pursuant to this chapter or which permit is revoked or which is deemed to be an abandoned sign; or which is not maintained in good and

complete condition with lettering and graphics clean, legible, in true alignment and finishes in good repair, is prohibited and shall be brought into compliance.

(2) The business, property and/or sign owner of any non-compliant sign shall be in violation until such sign(s) is removed or repaired. The Town may, with thirty (30) days prior written notice to the property and/or sign owner(s), remove such sign without further notice or further proceedings at the expense of the property and/or sign owner. The expense may be recovered by the Town in an action instituted in a court having competent jurisdiction.

(3) In the case of an unsafe sign which, in the opinion of the Building Inspector, is an immediate peril to persons or property, the Building Inspector may order and arrange for the removal of such sign, without notice to the owner thereof.

K. Number and Size of permitted signs

(1) In the RA and HR Districts, one building or one freestanding sign shall be permitted, provided such sign does not exceed twelve (12) square feet in area. Any freestanding sign shall not stand any higher than six (6) feet from the ground to the highest point on the sign.

(2) In the C, DMR, and D Districts, one (1) building sign not to exceed fifty (50) square feet in size shall be permitted for each commercial or office use. In addition, one (1) freestanding sign not to exceed forty-two (42) square feet in size shall be permitted for each principal structure, and such sign may be used to identify any or all business uses in such structure. Any freestanding sign shall not stand any higher than twelve (12) feet from the ground to the highest point on the sign. One (1) awning adhered to the building for each principal business office or use shall also be allowed.

(3) If two or more businesses are located upon one or more contiguous lots or parcels, only one freestanding sign is permitted. The owner of such real property or business may elect how the allowable signage is allocated among the various businesses.

(4) In all districts, where the principal building is located with frontage on more than one street or public highway, one building sign or one projecting sign or one freestanding sign located along each frontage shall be permitted.

(5) In all districts, off-premises signs shall not exceed twenty-eight (28) square feet in area and shall not stand any higher than six (6) feet from the ground to the highest point on the sign. Only one off-premises sign shall be allowed per lot.

L. Materials and Appearance.

For all signs associated with a Site Plan Review Use, the sign material, color, design, and aesthetics should match or complement the overall design scheme of the primary structure to the greatest extent possible.

§ 112-23. Manufactured homes.

A. Purpose.
The purpose of this section is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of New Baltimore and of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of manufactured homes, travel trailers and pickup campers.

B. Not more than one manufactured home shall be placed on any one parcel of land.

C. Parking on streets prohibited. No occupied manufactured home, travel trailer or pickup camper shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking when caused by mechanical failure shall be permitted upon the shoulder of any street or highway for a period of not more than 72 hours; subject, however, to any prohibition or limitation imposed by other regulations or laws.

D. Building Permit Required.
(1) The installation of the manufactured home shall conform to the requirements of the NYS Building Code and the United States Department of Housing and Urban Development, including, but not limited to, regulations concerning installation warranty, electrical supply and utilities, foundation/supports, and skirting.
(2) All manufactured homes shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system. Both systems shall satisfy the requirements of the New York State Department of Health, the Town of New Baltimore, and any other requirements of the NYS Building Code.

The manufactured home sewage disposal site and water supply shall be staked out on the site for examination by the Building Inspector.

E. HUD data plate required.
All manufactured homes shall have affixed a data plate required pursuant to 24 CFR section 3280.5, as currently in effect and as hereafter amended from time to time, or any similar regulation that may hereafter be promulgated by the United States Department of Housing and Urban Development;

F. Approval of requirements required.
No occupants shall occupy any manufactured home or dwelling until all requirements of this chapter have been approved by the Town Building Inspector.

G. Travel trailers and pickup campers.

(1) Prohibition of travel trailers and pickup campers. No occupied travel trailer or pickup camper shall hereafter be parked or otherwise placed within the Town of New Baltimore unless a temporary permit at no cost is issued to the applicant, which permit shall be for a period not to exceed 45 days from its date of issuance.

(2) In the case where a dealer of manufactured homes, travel trailers and/or pickup campers locates a manufactured home in the Town of New Baltimore or parks any travel trailer and/or pickup camper in the Town without a permit having been secured, both the manufactured home dealer and owner of the manufactured home, travel trailer or pickup camper shall be considered to be in violation of this Article.

(3) The storage or garaging of travel trailers and/or pickup campers is permitted as an accessory use to a primary residential use. No unoccupied travel trailer and/or pickup camper shall be parked or located between the street line and the front building line, directly in front of the primary structure.

(4) A manufactured home, travel trailer and/or pickup camper shall be permitted on the site of a construction project, survey project or other similar work project, provided that it is used solely as a field office, work or tool house in connection with such project, and provided that such manufactured home, travel trailer and/or pickup camper is removed from such site within 30 days after the completion of such project.

H. Temporary Living Quarters.

If the owner of the land desires to place a manufactured home on such land for the sole purpose as temporary living quarters during the construction of a permanent dwelling thereon, temporary permit will be issued in accordance with the following:

(1) The provisions of this chapter shall apply.

(2) Upon issuance of a Certificate of Occupancy, the use of the manufactured home as temporary living quarters shall be discontinued and the manufactured home removed within 60 days.

§ 112-24. Adult uses.

A. Purposes and considerations.

(1) In the execution of this article it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.

(2) It is further declared that the location of these uses in regard to areas where minors may regularly assemble and the general atmosphere encompassing their operation is of great concern to the town.

(3) The town has conducted a study of the impact of adult entertainment facilities and adult uses and intends to use its zoning powers to prevent a concentration of these uses in any one area and to restrict their accessibility to minors.

B. Location restrictions.

Adult uses shall be allowable in Commercial or Developmental Districts by special permit subject to the following restrictions:

(1) Any of the above uses shall not be located within a one-thousand-foot radius of any area zoned for residential use.

(2) Any of the above uses shall not be located within a one-thousand-foot radius of another such use.

(3) Any of the above uses shall not be located within a one-thousand-foot radius of any school, church or other place of religious worship, park, cemetery, playground, playing field or day-care/child-care facility.

C. Waiver of restrictions.

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

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this article will be observed;

(2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and

(3) That 51% or more of the property owners within the restricted area as defined in B.(1), B.(2), and B.(3) above have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

D. Limitation of number of adult uses.

No more than one adult use shall be located on any lot.

E. Amortization.

By amortization, the right to maintain a legal nonconforming adult use shall terminate in accordance with the following schedule:

Amount of Capital investment as of Effective Date of this Article	Date Before Which Use Shall Terminate
0 to $5,000	January 1, 2000
$5,001 to $8,000	January 1, 2001
$8,001 to $15,000	January 1, 2002

$15,001 to $22,000	January 1, 2003
$22,001 or more	January 1, 2004

NOTE: The term "capital investment," as used above, is defined to mean the initial outlay by the owner and/or operator to establish the business as of the date of the enactment of the chapter, exclusive of the fair market value of the structure in which the use is located.

§ 112-25. Design guidelines and standards. [Amended 1-05-2009 by L.L. 2 of 2009]

A. Applicability. The Design Guidelines are applicable to all new development projects requiring site plan review located within the C, D and DMR zones. Applicants shall be responsible for creating the initial proposed design subject to review and approval by the Planning Board in accordance with these guidelines.

B. Guidelines and standards. The use of “shall” indicates a standard which will be required by the Planning Board. The use of “may”, “should” or “encouraged/discouraged” indicate voluntary guidelines, which, although not mandatory, provide guidance to applicants for the design of applicable site and architectural features.

C. Purpose. The purpose of the Design Guidelines is to:
   (1) Promote site and building designs with enduring aesthetic appeal.
   (2) Encourage attractive, inviting, and safe pedestrian-friendly spaces that evoke a character appropriate to the Town of New Baltimore.
   (3) Cultivate development patterns that further the recommendations of the Comprehensive Plan.

D. Site Guidelines and Standards
   (1) Commercial
      (a) Site Organization
         (i) The natural topography and site features shall be the primary dictating factor in the organization of the built elements of the site.
         (ii) Parking may occur anywhere on the subject property (subject to the minimum setbacks for the district) and the Planning Board shall have discretion to require relevant landscape plantings, vehicular connections, and pedestrian amenities as recommended in these design guidelines.
         (iii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of “strip” development. For projects which propose more than one structure, consider grouping buildings together, to simulate the

siting of agricultural buildings. (iv) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.

(v) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

(b) Vehicular and Pedestrian Circulation

(i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.

(iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.

(iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.

(v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.

(vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(c) Landscaping

(i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.

(ii) Maintain a minimum 8’-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.

(iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.

(iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest

Health Technology Enterprise Team. The most current list can be accessed at: http://www.invasive.org/eastern/.

(v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.

(vi) The Planning Board shall have the discretion to require landscaping within parking areas.

(vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.

(d) Signage, Lighting, and Utilities

(i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.

(ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.

(iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets: Varies:	0.5 – 3 foot candles
Building entrances:	5 foot candles

(iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

(v) The Planning Board shall have the discretion to require landscaping within parking areas.

(4) Developmental District

(a) Site Organization

(i) The natural topography and site features should be the primary dictating factor in the organization of the built elements of the site.

(ii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of "strip" development. For projects which propose more than one structure, consider grouping buildings together, to simulate the siting of agricultural buildings.

(iii) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.

(iv) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

(b) Vehicular and Pedestrian Circulation

(i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.

(iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.

(iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.

(v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.

(vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(c) Landscaping

(i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.

(ii) Maintain a minimum 8’-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.

(iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.

(iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at: http://www.invasive.org/eastern/.

(v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.

(vi) The Planning Board shall have the discretion to require landscaping within parking areas.

(vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.

(d) Signage, Lighting, and Utilities

(i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.

(ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.

(iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets: Varies:	0.5 – 3 foot candles
Building entrances:	5 foot candles

(iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

(5) Development/Multifamily Residential Zone:

(a) Site Organization

(i) The natural topography and site features should be the primary dictating factor in the organization of the built elements of the site.

(ii) The Planning Board shall have the discretion to require landscaping within parking areas.

(iii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of "strip" development. For projects which propose more than one structure, consider grouping buildings together, to simulate the siting of agricultural buildings.

(iv) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.

(v) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

(b) Vehicular and Pedestrian Circulation

(i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.

(iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.

(iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.

(v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.

(vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

(c) Landscaping

(i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.

(ii) Maintain a minimum 8’-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.

(iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.

(iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at: http://www.invasive.org/eastern/.

(v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.

(vi) The Planning Board shall have the discretion to require landscaping within parking areas.

(vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.

(d) Signage, Lighting, and Utilities

(i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.

(ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.

(iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets: Varies:	0.5 – 3 foot candles
Building entrances:	5 foot candles

(iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

E. Architectural Guidelines.

(1) Purpose. Unlike the site guidelines, which are very specific, these architectural guidelines do not dictate precise styles, materials, or design choices for buildings in New Baltimore. Rather, the following discussions are intended to be a starting point to assist architects and developers beginning the design process. Specific architectural goals and guidelines have been prepared for each zone.

(2) Commercial:

(a) General. Create high-quality commercial structures which relate to and enhance the landscape, rather than detracting from it. Larger buildings should have a distinctive style and interesting facades, and smaller

buildings should provide a visual transition between rural residential forms and the more commercial uses. Reliance on pre-fabricated or pre-determined building forms, materials, and colors is discouraged.

(b) Building Form and Facades:

(i) Facades should be designed with features which reduce the large scale and the uniform, impersonal appearances of commercial buildings. Facades should be consistent with the Town's identity, character, and scale. This design of the facade should be integral to the building, and not superficially applied trim, graphics, paint, etc.

(ii) All facades of a building which are visible from adjoining properties, public streets and/or on-site roadways should have similar features and amenities as the front façade.

(c) Rooflines:

(i) Variations in rooflines should be used to add character to smaller buildings, and reduce the massive scale of large buildings.

(ii) The use of green or living roofs is encouraged. The guidelines above should not be construed to preclude the use of innovative green technologies.

(d) Entrances.

The design of entrances should be attractive and welcoming, using features such as outdoor patios, recessions/projections, arcades, peaked rooflines or gables, canopies, arches, or display windows.

(e) Materials and Colors:

(i) High-quality, durable materials such as brick, stone, wood, and concrete clapboard are encouraged.

(ii) Avoid using unfinished masonry units or synthetic stucco, especially at entrances and areas which receive up-close scrutiny from pedestrians.

(iii) Building colors should reflect the intended architectural style rather than pre-determined corporate or business colors.

(3) Developmental and Development/Multifamily Residential Zones

(a) General. Create high-quality commercial structures which relate to and enhance the landscape, rather than detracting from it. Larger buildings should have a distinctive style and interesting facades, and smaller buildings should provide a visual transition between rural residential forms and the more commercial uses. Reliance on pre-fabricated or pre-determined building forms,
materials, and colors is discouraged.

(b) Building Form and Facades:

(i) Facades should be designed with features which reduce the large scale and the uniform, impersonal appearances of commercial buildings. Facades should be consistent with the Town's identity,

character, and scale. This design of the facade should be integral to the building, and not superficially applied trim, graphics, paint, etc.

(ii) All facades of a building which are visible from adjoining properties, public streets and/or on-site roadways should have similar features and amenities as the front façade.

(c) Rooflines:

(i) Variations in rooflines should be used to add character to smaller buildings, and reduce the massive scale of large buildings.

(ii) The use of green or living roofs is encouraged. The guidelines above should not be construed to preclude the use of innovative green technologies.

(d) Entrances. The design of entrances should be attractive and welcoming.

(e) Materials and Colors:

(i) High-quality, durable materials such as brick, stone, wood, and concrete clapboard are encouraged.

(ii) Building colors should reflect the intended architectural style rather than pre-determined corporate or business colors.

§ 112-26. Regulation of steep slopes.

A. Intent.

Steep slopes in the Town of New Baltimore are environmentally sensitive land forms and valuable natural resources which are of benefit to the entire Town and the surrounding region. The environmental sensitivity of steep slopes often results from such features as rock outcrop, shallow soils over bedrock, bedrock fractures, groundwater seeps, watercourses and other wetlands found on or immediately adjacent to steep slopes. In addition, these areas of steep slopes, especially along the Route 9W corridor, are an integral component of the visual character of the Town. The intent is not to restrict general development in the Town, but to guide land use proposals into areas where they best preserve and enhance these natural resources and preserve and protect the visual and environmental character of the land.

B. Applicability.

The following regulations apply to all development and other land disturbing activities within the C, DMR, and D zones.

C. Measurement of steep slopes.

For purposes of determining the location of steep slope areas, only slopes containing at least 2,000 square feet of contiguous steep slope area at least ten feet in width shall be considered.

D. Limitation of area disturbed.

All land disturbing activities, including but not limited to clearing, grading, excavation, building construction, construction of driveways and roads, cutting, and filling, shall be limited to the minimum land area necessary to accommodate the proposed use or activity.

E. Limits on Changing Natural Grade.

The original, natural grade of a lot shall not be raised or lowered more than four (4) feet at any point for the construction of any structure or improvements, except that:

(1) These standards limiting change of natural grade shall not apply to grading required to construct or excavate a foundation or basement.

(2) The Planning Board may approve modifications to these standards if it finds that such modifications would result in less total site disturbance and visual impact than would compliance with the maximum limits on changing natural grade stated in this subsection.

F. Revegetation Required.

Any slope exposed or created in new development on very steep or moderately steep slope areas shall be revegetated or landscaped with non-invasive species as soon as possible after land disturbance occurs and such landscaping shall be properly maintained to prevent erosion.

G. Disturbance of steep slopes.

(1) Permitted Uses and Activities. All uses and activities allowed in the zoning district shall be allowed on moderately steep slopes, subject to applicable review procedures and standards.

(2) Any such development and uses on moderately steep slope areas shall minimize disturbance to soil geology, hydrology, and environmental features, including visual impact.

ARTICLE VII
Site Plan Review

§ 112-27. Intent and purpose.

A. It is the intent of this chapter to promote the health, safety, and general welfare of the Town with regards to Town-wide commercial development. A clean, attractive environment as well as the promotion of sustainable design techniques are declared to be of importance to the health and safety of the inhabitants of the Town and such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

B. It is further the intent of this chapter to ensure the reasonable overall conservation, protection, preservation, development and use of the human and natural resources of the Town through review and approval of site plans. Toward this end, these regulations establish standards for preserving water quality, controlling air quality and traffic congestion, ensuring site access for emergency services (e.g. fire/police protection and ambulance services), providing adequate water supply and safe and proper means for sewage and solid waste disposal and guarding neighboring properties against intrusive excessive impacts.

§ 112-28. Applicability.

A. Development projects requiring site plan approval.
   (1) A new use or development designated as requiring site plan review in the Use Table of this chapter, shall not be undertaken unless and until the Planning Board has conducted Site Plan Review.
   (2) Any uses designated as requiring site plan review in the Use Table of this chapter, shall not be expanded or intensified beyond the exceptions laid out below, such that changes to the site or exterior of the building are necessary, unless and until the Planning Board has conducted Site Plan Review.
   (3) A change in use from a use designated as requiring site plan review to one designated as requiring a Special Use Permit shall require site plan review, as required in Article X. A change from one site plan review use to another shall not require site plan approval if no physical changes to the structure or site are necessary beyond the exceptions laid out in (B.) below.

B. Exceptions.
   The following development projects do not require Site Plan Review, regardless of whether the use is designated as a Site Plan Review use in this chapter:

(1) Exterior alterations or additions that will not increase the gross floor area of the existing structure within any 5 year period by more than 10,000 square feet or 25% of the gross square feet of the building, whichever is less.

(2) Additions or alterations to existing outdoor parking or storage areas that do not increase the total area by more than 1,500 square feet

C. Designation of Major and Minor Projects

All development projects requiring Site Plan Review shall be designated by the Planning Board as a Minor or Major project.

(1) Minor projects are those projects deemed by the Planning Board as not likely to create significant impact on the community according to the Site Development Standards set forth in §112-35, and therefore may be approved with a less intensive review.

(2) Major projects are those projects deemed by the Planning Board as likely to create significant impact on the community, and therefore require more intensive review.

(3) Projects are presumed to be minor unless they meet any of the following thresholds:

(a) Any action meeting the definition of a Type I action according to SEQRA

(b) Any new construction of freestanding structures over 2,500 square feet

(c) Any construction activity required by the NYS Department of Environmental Conservation to prepare a Stormwater Pollution Prevention Plan

§ 112-29. Application procedure.

A. Pre-application conference. Applicants have the option to have an informal meeting with the Planning Board, prior to submitting a formal application package. The purpose of this meeting is to allow applicants and Board members to begin a dialogue about the approval process and project concepts. Although this meeting is optional, it is recommended for applicants with complex site plan review projects. B. Preliminary site plan review and designation of major/minor project status.

(1) All applicants are required to submit 10 copies of the application at least 10 days prior to the scheduled Planning Board meeting date. The minimum required information for this application shall be that needed for a minor project, as described herein.

(2) Applicants may submit more than the minimum application content for minor projects. However, it is recommended that applicants undergo the preliminary review with the Planning Board prior to preparing a detailed application.

(3) At the preliminary site plan review meeting, the Planning Board shall designate the project as major or minor.

§ 112-30. Minor project site plan review application content.

Minor project applications shall include, but not be limited to, the following:

A. A brief narrative and preliminary concept showing the locations and uses of principal and accessory structures, parking areas, and other planned features and any significant anticipated changes to the existing topography and natural features.

B. A location map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within the project area.

C. A topographic or contour map of adequate scale and detail to show site topography if applicable.

D. A completed Short Environmental Assessment Form

E. The completed application form and fee

§ 112-31. Planning Board action for minor projects.

A. Minor projects may be approved at the preliminary review meeting with no further review.

B. At the preliminary review meeting the Planning Board may determine that the applicant must submit additional information in order to complete its review of the project. Additional information may include, but not be limited to, any item listed in the Major Site Plan Checklist below.

C. No public hearing is required for a minor project. However, the Planning Board, at its sole discretion, may hold a public hearing according to the procedures set herein.

§ 112-32. Major site plan application content.

The Planning Board is not limited to this list and may, within reason, request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the use, location, and the size and potential impact of the project.

A. Legal Information

(1) Title of site plan, including the name and address of applicant and owner, if different, and the person responsible for preparing such drawing.

(2) North arrow, scale, and date. Scale should be no greater than one inch per fifty feet.

(3) Boundaries of property plotted to scale.

(4) Location and ownership identification of all adjacent lands as shown on the latest tax records.

(5) Location, width and identification of all existing and proposed rights-of-way, easements, setbacks, reservations and areas dedicated to public use on or adjoining the property.

B. Existing Conditions

(1) Location, type of construction, exterior dimensions, and existing use of all buildings on the premises.

(2) Location, name and width of existing adjacent roads.

(3) Existing contours. Areas with slopes greater than 15% shall also be indicated.

(4) Bedrock less than five feet from the surface and areas of frequent rock outcrops.

(5) Existing areas of high groundwater (seasonal or permanent).

(6) Soils with excessively slow or fast percolation. (Refer to soil survey reports available from the Soil Conservation Service).

(7) Flood hazard areas.

(8) State or federally regulated freshwater wetlands.

(9) Existing waterbodies or watercourses.

(10) Existing flora and fauna, including wooded areas, significant isolated trees, and habitat areas.

C. Proposed Conditions

(1) Grading and drainage plan showing proposed contours.

(2) Location, type of construction and exterior dimensions of all buildings to be constructed or altered on the site.

(3) Identification of the amount of gross floor area proposed for retail sales and services, offices and other commercial or industrial facilities.

(4) Location, type of construction and area of all parking and truck loading areas, showing access and egress.

(5) Provision for pedestrian access, including Americans with Disabilities Act (ADA) criteria and including public and private sidewalks, if applicable.

(6) Location of outdoor storage, if any.

(7) Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, with the proposed construction material noted.

(8) Description of the method of sewage disposal and the location of such facilities.

(9) Description of the method of securing water, location of such facilities and approximate quantity of water required.

(10) Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
(11) Location, design and construction materials of all energy generation and distribution facilities, including electrical, gas and solar energy.
(12) Location, size, design and type of construction of all proposed permanent signs.
(13) Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
(14) Location and design of existing and proposed outdoor lighting fixtures.
(15) General landscaping and planting schedule.
(16) Record of applications and approval status of all necessary permits from federal, state, county and local offices.
(17) Estimated project construction schedule.
(18) Future plans for undeveloped portion of property, if known.

D. Any materials needed to undergo SEQR review, including a Short or Long Environmental Assessment Form or Draft Environmental Impact Statement.

E. The completed application form and fee.

§ 112-33. Planning Board action for major projects.

A. Applicants for major projects must submit 10 copies of a complete major site plan review application 10 days in advance of the Planning Board meeting.

B. Acceptance of major project site plan application.

The Planning Board shall, within 30 days of a major site plan application being filed, determine whether to accept the application as complete or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter noting application deficiencies.

C. Referral to other agencies and boards.
(1) Coordinated review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants and to representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the New York State Department of Environmental Conservation and the New York State Department of Health.
(2) Required referral. Prior to taking final action on the site plan and where applicable, the Planning Board shall refer the plan to the Greene County Planning Board and adjacent municipalities pursuant to § 239-m, -n, and -nn of the General Municipal Law.

(3) Special Use Permit. If the applicant requires a special use permit, the Planning Board shall refer to Article X.

(4) Public hearing on site plan.

(a) The Planning Board will conduct a public hearing on all major site plan applications. Such hearing shall be held within 62 days of the Planning Board's acceptance of the complete site plan application.

(b) The Planning Board shall advertise notice of the public hearing in the town's official newspaper at least five and not more than 30 days before the hearing.

(c) Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date.

(5) Planning Board approval.

Following conclusion of the SEQRA review process and/or within 62 days of the close of the site plan review public hearing, the Planning Board shall render its decision to either approve, approve with conditions or disapprove the site plan.

(a) Approval. Upon approval of the site plan and payment by the applicant of all related fees and reimbursable costs due the town, the Planning Board Chairman shall endorse the approval on a copy of the site plan and immediately shall file the site plan and a resolution of approval with the Town Clerk. The Town Clerk shall mail a copy of the resolution of approval to the applicant by certified mail with a copy to the Building Inspector.

(b) Approval with conditions. The Planning Board may approve the site plan and make that approval contingent upon specific conditions being met.

(c) A copy of a written statement of approval containing the conditions required by the Planning Board shall be mailed to the applicant by certified mail. A copy of the approval with conditions will also be provided to the Building Inspector.

(d) Upon approval and after payment by the applicant of all related fees and reimbursable costs due the town, the Planning Board shall endorse its conditional approval on a copy of the site plan and shall file the site plan and a resolution of conditional approval with the Town Clerk.

(e) Upon approval with conditions, applicants shall fulfill such conditions and requirements as requested by the Planning Board within the approval period set forth in this Article. The Planning Board shall empower the Chairperson of the Planning Board to endorse the site plan upon compliance with such conditions and requirements as may be stated in its resolution of approval with conditions.

(f) Extensions may be granted by the Planning Board for three consecutive six-month periods.

D. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail, together with a resolution stating the Planning Board's reasons for disapproval. A copy will also be provided to the Building Inspector.

E. Extension of time to render decision; approval by default.

The period of time in which the Planning Board must render its decision on a completed site plan application may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified above or agreed upon between the applicant and Board shall constitute Planning Board approval of the site plan application as submitted or as most recently last amended.

§ 112-34. Professional assistance.

The Planning Board, subject to the approval of the Town Board, may require an applicant for major or minor projects undergoing Site Plan Review to deposit in an escrow account an amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

§ 112-35. Project standards.

A. General objectives.

(1) Sites shall be of such character that they can be developed safely without danger to health or peril from fire, flood or other menace.

(2) Site Development Standards

Site development shall comply with the following objectives:

(a) Adequate and safe vehicular circulation between the site and public thoroughfare(s), including any necessary curb-cut permits from the jurisdictional authority, e.g. state, county or town highway departments.

(b) Safe and adequate interior site circulation, including parking and loading areas.

(c) Accessibility, with particular attention to access for emergency vehicles during periods of operation.

(d) Adequacy of stormwater and drainage facilities.

(e) Compatibility with and protection of adjacent uses, particularly residential uses, through landscaping, vegetative and other screening, buffering, planting, setbacks and method of construction.

(f) Mitigation of any adverse effects of smoke, noise, glare, vibration, odors and/or other noxious and offensive conditions.

(g) Mitigation of any adverse effects on historic properties listed on the National, State or Greene County Historical Registers and other cultural and historical resources of the town.

(h) Adequate accommodation of on-site waste treatment and water facilities unless central sewer and/or water service is provided.

(i) The provisions of any applicable Design Guidelines

(3) Natural resource standards.

The Town finds that certain natural resources are worthy of conservation. The Town further finds that these resources may not be suited to development. Site plans for lots which contain these resources should avoid or mitigate any physical impacts which may result from construction. These resources include:

(a) Slopes greater than 15% or other areas subject to erosion.

(b) Bedrock less than five feet from the surface and areas of frequent rock outcrops.

(c) Areas of high groundwater (seasonal or permanent).

(d) Soils with excessively slow or fast percolation. (Refer to soil survey reports available from the Soil Conservation Service).

(e) Flood hazard areas.

(f) State or federally regulated freshwater wetlands.

(g) Shorelines of waterbodies or watercourses.

(h) Important habitat areas, based on designations made in open space plans, natural resource surveys, or other such studies conducted by local, regional, or state agencies and as adopted by resolution of the Town Board.

§ 112-36. Expiration of approval; extension.

A. Unless otherwise specified or extended by the Planning Board, site plan approvals shall expire after 1 year of the approval filing date if the applicant has not obtained a building permit or started actual construction as defined in Article XVI of this chapter.

If a building permit for the site is obtained within the one-year period, the site plan approval shall be valid for two (2) additional years from the date of the permit issuance.

B. In the event that a building permit has not been obtained or actual construction has been started, the applicant must resubmit either a preliminary or final site plan for Planning Board review and approval, as directed by the Board. Any developed use of the parcel, lot, and building after the termination of such approval hereto shall be a violation hereof.

C. The Planning Board may, at the applicant's written request and at least 30 days prior to the expiration of the initial one-year approval, grant the applicant an extension of the approval for up to one additional year.

§ 112-37. Certificate of occupancy; inspections.

A certificate of occupancy shall be issued when all improvements shown on the site plan are installed and deemed in conformance with the approved site plan by the Building Inspector. Inspections during the installation of improvements shall be made by the Building Inspector to ensure conformity with the approved plans and specifications as contained in the contract and this chapter. The applicant shall notify the Building Inspector when the improvements are ready for inspection.

ARTICLE VIII
Planned Development District (PDD) Provisions

§ 112-38. Findings and purpose.

A. When coordinated with the municipal comprehensive plan, a Planned Development District can be an effective tool for guiding development in ways that support community goals and priorities.

B. A Planned Development District provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional municipal zoning techniques, a Planned Development District provides flexibility in the regulation of land use development in order to:
   (1) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures;
   (2) Enhance efficiency in the use of land, natural resources, energy, community services and utilities;
   (3) Encourage open space preservation and protection of natural resources, historic sites and structures;
   (4) Facilitate the provision of housing and improved residential environments;
   (5) Enhance the ability of municipalities to promote business and employment opportunities.

§ 112-39. Objectives.

In order to realize the purpose of this section, a Planned Development District (PDD) shall achieve the following objectives:

A. A development pattern which preserves outstanding natural topography and geological features, scenic vistas, trees, and prevents the disruption of natural drainage patterns.

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

C. A development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.

D. The preservation, renovation and/or adaptive reuse of existing structures of historic and/or local significance.

E. A creative use of land and related physical development which allows an orderly transition of land from rural to urban character and uses.

F. A more desirable environment than would be possible through the strict application of other articles of this chapter.

G. More usable open space and recreation areas and, if permitted as part of a project, more convenience in location of commercial and service uses.

H. The maintenance and creation of commercial services at varying scales and intensities essential to the economy of New Baltimore.

I. A symbiotic relationship with residential units, both integral with and adjoining the project, creating a mutually beneficial functional interchange.

J. Adherence to any applicable economic conditions, post-development agreements, or environmental mitigation which may be required.

§ 112-40. General requirements for planned development districts (PDD).

A. Minimum project area. The minimum project area of a Planned Development District shall be ten (10) contiguous acres of land undivided by roads, utility rights of ways or similar barriers. The Town Board may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this section.

B. Project ownership. The project land may be owned, leased or represented either by a single person, or corporation, or by a group of individuals or corporations. Such ownership may be a public or private corporation. The approved project plan shall be binding on the project land and owner(s).

C. Location of Planned Development Districts. The PDD District shall be available in all zones, where the applicant can demonstrate that the characteristics of the land holdings meet the purpose and objectives of this chapter and the objectives of the Comprehensive Plan.

D. In no case shall a PDD be approved if, in the judgment of the Town Board, the objectives of this section are not realized in the PDD design.

E. In no case shall a PDD be approved unless a common water supply and/or sanitary sewer system are available or proposed to serve the development.

F. Permitted uses. All uses within a PDD District may be determined by the following provisions:

(1) Residences may be of a variety of types, including single-and two-family dwellings, and multifamily dwellings.

(2) Commercial uses. Commercial uses may be a variety of scales, types and orientation from commercial recreation to general retail business to commercial retail services to wholesale commercial uses, except that the highway "strip" orientation of such uses shall be discouraged by the town.

G. Common property in Planned Development Districts.

(1) Common open space totaling not less than 25% and up to 50% of the total Planned Development District shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports and other features.

(2) A property owners' association or similar mechanism for the long-term ownership and maintenance of this common open space shall be provided, subject to the approval of the Town Board, and the grant of a Conservation Easement to further ensure the protection of this open space may be required.

§ 112-41. Planned development district application procedure and approval process.

A. General. Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Development District in accordance with the following procedures.

B. Sketch Plan Review Procedure.

(1) Prior to the formal filing of a PDD application, the applicant shall submit a sketch plan of the proposal.

(2) During Sketch Plan Review, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PDD and set limits on the nature and range of uses, geometric and site controls and overall project planning. Specifically, the Town Board shall review the sketch plan according to the following criteria:

(a) The proposal conforms to the Comprehensive Plan.

(b) The proposal meets local and area-wide needs.

(c) The proposal meets the intent and objectives and general requirements of this section.

(3) The Town Board has the authority to accept or refuse to consider any PDD proposal. Once the Town Board has accepted a PDD sketch plan for consideration, it shall refer the sketch plan to the Planning Board. Such refusal or

acceptance and referral shall take place within 30 days of the submittal of the PDD sketch plan.

(4) The Town Board may also schedule an optional Joint Meeting with the Planning Board, to be held within 45 days of the date of referral to the Planning Board.

(5) The Planning Board, upon receipt of the referral, shall have 45 days to issue an advisory report to the Town Board on the PDD sketch plan. Failure to issue an advisory report within 45 days shall be equivalent to a neutral recommendation. The advisory report shall make a recommendation as to whether the sketch plan, as submitted, meets the following sketch plan review criteria:

(a) The proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.

(b) There are adequate services and utilities available or proposed to be made available in the construction of the development.

(6) Within 45 days of the receipt of the advisory report, the Town Board may act or schedule an optional public hearing, with such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.

(7) Within 45 days of the Planning Board action or close of the sketch plan public hearing, the Town Board shall take action to approve, with or without conditions, or disapprove the proposed PDD sketch plan, based on the criteria set forth above.

(8) If approved or approved with conditions and accepted, the applicant may proceed to formal PDD application.

C. Sketch Plan Contents. The applicant shall submit to the Town Board, with copies to the Planning Board, a sketch plan of the proposed development. Such sketch plan shall be approximately to scale and shall clearly show the following information.

(1) The location of the various uses and their areas in acres.

(2) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.

(3) The interior open space system.

(4) The overall drainage system.

(5) A topographic map showing pre and post contour intervals of not more than five feet with an overlay showing the proposed grading concept.

(6) An aerial photo, if available.

(7) Principal ties to the community at large with respect to transportation, water supply, and sewage disposal.

(8) General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.

(9) A location map showing uses and ownership of abutting lands.

(10) Preliminary use and dimensional requirements, including:

(a) Permitted uses, conditional and accessory uses;
(b) Maximum development intensity of residential uses;
(c) Floor area ratio for non-residential uses;
(d) Lot coverage;
(e) Build-to distances from public and private ways;
(f) Setbacks for structures and parking areas;
(g) Minimum lot size;
(h) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas;
(i) Minimum lot frontages and building massing;

(11) In addition, the following documentation shall accompany the sketch plan:
(a) Evidence of how the developer's particular mix of land uses meets existing community demands to include area-wide as well as local considerations.
(b) Evidence that the proposal is compatible with the goals of local and area-wide Plans.
(c) General statement as to how common open space is to be owned and maintained.
(d) If the development is to be phased, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the entire project.
(e) Description of ownership, or other demonstration of compliance with §112-40 (B.) above.
(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 such a project, both physical and financial.

§ 112-42. Formal application.

A. After sketch plan review is complete a formal application for establishment of a Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee.

B. The Town Board shall refer the application to the Planning Board within 30 days of the receipt of the application. The Town Board shall also refer the application according to the requirements of General Municipal Law 239 -m, -n, and –nn and SEQRA.

C. Application Content. The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section. However, fully engineered plans and construction details are not required at this stage in the process. The following

information is required; however, the level of detail shall be sufficient to provide the Planning Board with enough information to understand the proposed PDD:

(1) The desirability of the proposed land use in the proposed location;
(2) The existing character of the neighborhood;
(3) Access, circulation, parking, and transportation management;
(4) Proposed location, type and size of signs and driveways;
(5) Existing State, County or Town highways that provide access to the area;
(6) Vehicular traffic circulation features, including proposed highways and roadways within the PDD;
(7) Mobility (bicycles, pedestrians, etc.) through the district.
(8) The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity;
(9) The conceptual footprint, height and bulk of buildings and the intended use for such buildings;
(10) Other site improvements;
(11) Phasing program if phases are proposed;
(12) General landscaping concept and features;
(13) Preservation of open space and natural areas including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection;
(14) Infrastructure improvement preliminary plans including water source and delivery, drainage, and energy;
(15) The general plan for the collection and disposal of sanitary wastes for the PDD;
(16) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas;
(17) Preservation of historic structure(s);
(18) Design standards and guidelines;
(19) A proposed amendment to the Zoning Code including at a minimum, a metes and bounds description of the property and standards for development;
(20) All material and data necessary to conduct review under the State Environmental Quality Review Act.
(21) A list of all other permits required.

§ 112-43. Planning Board action.

A. The Planning Board is delegated by the Town Board to be responsible for ensuring that the sketch plan approved by the Town Board will be properly implemented. The Planning Board achieves compliance by reviewing and approving the formal PDD plans submitted by the applicant.

B. The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, in accordance with the criteria set forth herein for the required findings as well as the project parameters set by the Town Board during sketch plan review, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.

C. The Planning Board shall make the Required Findings outlined below and recommend approval, approval with conditions or disapproval to the Town Board of such PDD application, and shall report its findings to the Town Board within 62 days following the date of referral from said Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.

D. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

§ 112-44. Required Planning Board findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

A. Uses and structures. The variety and arrangement of land uses and structures throughout the proposed development are appropriate for the site. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized by the Town Board during sketch plan review.

B. Dimensional standards. The Planning Board shall ensure compliance of the sketch plan approved by the Town Board. The Planning Board shall evaluate the project plan with respect to the minimum area and geometric controls and other standards set forth by the Town Board or the default standards of this section if not specifically modified by the Town Board.

C. Feasibility of completing the PDD. The Planning Board shall evaluate and comment whether the proposed sequence, staging and expected schedule for implementing the PDD can be achieved in the manner described. It shall seek to identify any public infrastructure or improvements that are related to or contingent upon the successful completion of the proposed PDD and set forth a preliminary schedule of PDD milestones that are to be achieved after adoption.

§ 112-45. Town Board action.

A. Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment. The Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.

B. The Town Board shall render a decision on the application within sixty-two (62) days of the close of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:
   (1) That the PDD is consistent with the purpose and intent of this chapter including, where applicable, the development program and standards of this chapter;
   (2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
   (3) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
   (4) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
   (5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
   (6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

C. The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:
   (1) Visual and acoustical screening
   (2) Land use mix
   (3) Schedule of construction and occupancy
   (4) Pedestrian and vehicular circulation system
   (5) Parking and snow removal
   (6) Sites for public services
   (7) Protection of natural and/or historical features
   (8) Requirements or conditions identified during the SEQR process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements

D. If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Town Law.

§ 112-46. Site plan review of building projects within an established PDD.

A. Site Plan Review Required. Upon the establishment of a PDD, all development projects within the PDD are required to undergo the Site Plan Review Process as laid out in Article VII of this chapter. This process may be undertaken concurrently with the PDD process.

B. Application for site plan approval for a development project within an established planned development district shall be made in writing to the Planning Board. Application shall be made by the owner(s) or developer(s) of the development project.

C. The applicant shall furnish necessary data, including maps and plans showing topography, building types and layout, setback, off-street parking and loading, ingress and egress, signs, existing and proposed amenities such as screening, planting and ornamental features and such other data and pans as may be required for an understanding of the proposed development.

The data, maps and plans submitted with the application shall be prepared in accordance with the requirements of Article VII, Site Plan Review (major projects) of this chapter.

D. The Planning Board may require that changes be made in the submitted plans that are found necessary or desirable to meet the requirements of this chapter and to conform to such other existing regulations of the Town concerning the approval of developments in general. Where a conflict between the PDD and the other land use laws exist the site specific PDD legislation shall prevail.

E. No permit shall be issued for any project within a PDD until the Planning Board determines that the proposed project is consistent with the approved PDD.
   (1) The PDD approved by the Town Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.
   (2) A building project within a planned development district shall conform in all respects to the approved plans.
   (3) The Planning Board, as appropriate shall document that the following requirements have been met prior to approval of a development project within a PDD:
      (a) The project is in conformance with the approved development program and the design standards.

(b) The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project;

(c) All other zoning requirements of the district, except those modified or specifically deemed not applicable by Building Inspector, shall be met;

(d) The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.

(4) The Planning Board shall hold a public hearing on any such proposed building project as finally submitted to it for approval.

(5) After the public hearing, the Planning Board, may approve, approve with conditions, or disapprove the application.

§ 112-47. Subdivision review.

Applications for subdivision in a Planned Development District shall be made to the planning board in accordance with Chapter 115 of the Code of the Town of New Baltimore. In the event of a conflict between such subdivisions regulations and this Article or any requirement imposed hereunder, the provisions of this Article of such requirements shall apply.

§ 112-48. Consultant review fees.

The Town Board may require an applicant for a PDD to deposit in an escrow account an amount established by the Town Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application for the PDD and subsequent Site Plan Review and/or Subdivision review. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of site plan or subdivision approval. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

§ 112-49. Conditions to run with land.

All conditions imposed by the Town and Planning Boards shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or

ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

§ 112-50. PDD amendment procedure.

A. Application.

(1) An application for amendment of an established Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the Environmental Conservation Law. The Town Board shall refer the application to the Planning Board within 30 days of the receipt of application.

(2) The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

B. Planning Board Action.

(1) The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.

(2) The Planning Board shall make the Required Findings outlined below and recommend approval, approval with conditions or disapproval to the Town Board of such PDD application, unless said application is abandoned, and shall report its findings to the Town Board within 62 days following the date of referral from said Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.

(3) Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

C. Required Findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

(1) Uses and structures. The variety and arrangement of land uses and structures throughout the proposed development are appropriate for the site. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized by the Town Board during sketch plan review.

(2) Dimensional standards. The Planning Board shall ensure compliance of the sketch plan approved by the Town Board. It shall evaluate the project plan with respect to the minimum area and geometric controls and other standards set forth by the Town Board or the default standards of this section if not specifically modified by the Town Board.

(3) Feasibility of completing the PDD. The Planning Board shall evaluate and comment whether the proposed sequence, staging and expected schedule for implementing the PDD can be achieved in the manner described. It shall seek to identify any public infrastructure or improvements that are related to or contingent upon the successful completion of the proposed PDD and set forth a preliminary schedule of PDD milestones that are to be achieved after adoption.

D. Town Board Action.

(1) Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal modification of the Planned Development District. The Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.

(2) The Town Board shall render a decision on the application within sixty-two (62) days of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:

(a) That the PDD is consistent with the purpose and intent of this chapter including, where applicable, the development program and standards of this chapter;

(b) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;

(c) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;

(d) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;

(e) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;

(f) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.

(3) The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:

(a) Visual and acoustical screening
(b) Land Use mix
(c) Schedule of construction and occupancy
(d) Pedestrian and vehicular circulation system
(e) Parking and snow removal
(f) Sites for public services
(g) Protection of natural and/or historical features

(4) If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Town Law.

§ 112-51. Other provisions.

PDD Legislation Repealer. The Town Board shall act to return the property to its prior zoning district classification if it finds that:

A. Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.

B. The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval of the PDD. The determination of substantial and continuing progress shall be determined solely by the Town Board, which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.

C. If a Planned Development District expires, any buildings constructed or used may continue as a non-conforming use and such shall continue to be bound by the previous PDD approval.

ARTICLE IX
Conservation Subdivisions

§ 112-52. Purpose and applicability.

A. Conservation Subdivisions allow design flexibility while preserving important natural attributes of the land. The purpose of Conservation subdivision development is to ensure that environmental resources are protected as much as possible and that development occurs on the land that is best suited for development.

B. For major subdivisions in the RA Zone the Planning Board may require Conservation Subdivisions as outlined herein.

C. Conservation Subdivision requirements may be applied to minor subdivisions if desired by the applicant.

§ 112-53. Conservation subdivision procedures.

Review Process. The Conservation Subdivision process involves the following three steps:

A. Concept Plan Review, as set forth in Chapter 115, Subdivision Regulations.

B. Conservation Analysis, as set forth herein

C. Preliminary and Final Plat Review (as per Chapter 115, Subdivision Regulations)

§ 112-54. Conservation analysis.

A. After receiving Concept Plan approval, as outlined in §115-4, Subdivision of Land, an applicant shall prepare a conservation analysis, consisting of inventory maps, survey and topographic maps, written description of the land, and a written analysis of the conservation value of various site features.

B. The conservation analysis shall identify lands with conservation value on the parcel, including but not limited to the following:
   (1) "Constrained land" as defined herein. Constrained land includes:
      (a) Wetlands (NYS Department of Environmental Conservation and US Army Corps of Engineers)
      (b) Watercourses/waterbodies with a 100 foot buffer
      (c) 100-year floodplains

(d) Slopes over 15% which are 2,000 square feet or more of contiguous sloped area

(2) Active Farmland

(3) Existing or proposed public trail corridors

(4) Scenic viewsheds, as determined through the completion of a NYS Department of Environmental Conservation Visual Environmental Assessment Form, or as otherwise defined in any Natural Resources inventory or similar plan adopted by resolution of the Town Board

(5) Documented aquifers and aquifer recharge areas

(6) Sites identified as historic on any federal, state, or local register of historic places

(7) Public parks and publicly accessible recreation lands

(8) Unfragmented forest land

(9) Buffer areas necessary for screening new development from adjoining parcels and from other publicly accessible areas including roads, parkland, and nature preserves

(10) Stone walls

(11) Trees 8" dbh or larger, except where such trees are part of a larger stand of trees, in which case the entire stand may be identified as a unit

(12) If requested by the Planning Board, other relevant information such as the location and nature of areas with potential recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.

C. The Conservation Analysis shall also identify areas that are potentially suitable for development, especially those that have been previously disturbed (e.g. by mining, prior development, or clear-cutting) and their present condition. Such areas, depending on their condition and location might be preferred locations for development.

D. Sketch Plan.

The sketch plan shall incorporate the outcome of the Conservation Analysis into the design and layout of the project.

The Sketch Plan shall show the following:

(1) A density calculation, as described in Article V.

(2) Preferred locations for intensive development as well as acceptable locations for less dense development.

(3) Land to be permanently preserved, as well as recommended Conservation uses, ownership, and management guidelines for such land. 25-50% of the total acreage is recommended to be preserved by deed restriction or conservation easement as set forth herein and shown as such on the Sketch Plan, based upon the Conservation Analysis.

(4) Land suitable for stormwater management facilities, which may be located within the preserved land area.

(5) A sketch plan showing the draft lot and road layout, based on the number of lots proposed by the applicant.

E. Conservation Analysis Findings.

The Planning Board shall make a final determination that the applicant has identified sufficient land that has conservation value and should be protected from development by conservation easement or deed restriction. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the "Conservation Findings"). The Planning Board may incorporate information provided by its own research, as a result of site visits, or provided by its own consultants, or other qualified experts or agencies.

§ 112-55. Preliminary and final plat review.

Once the sketch plan is approved, the applicant must follow all processes and requirements pertaining to Preliminary and Final Plat for Major Subdivisions pursuant to Chapter 115, Subdivision Regulations.

§ 112-56. Exceptions and waivers from conservation subdivision requirement.

A. Exception with voluntary lot size increase

Applicants may, at their discretion, seek an exception from the conservation analysis process and proceed directly to a conventional subdivision by voluntarily increasing in the minimum lot size proposed on the parcel. The increased minimum lot size shall be determined by the number of lots proposed, as set forth in the Dimensional Table (Article V).

It should be noted on the approved subdivision map that the increased minimum lot size shall apply to all further subdivision of any parcels created under the application of this waiver. However, this does not restrict the minimum lot size for the parent parcel, provided that any such subsequent subdivision meets the provisions of this Chapter.

B. Waiver with no lot size increase

(1) Applicants may also apply to the Planning Board to waive the requirements for a Conservation Subdivision without increasing the minimum lot size by completing a Conservation Analysis of the property. If, based upon the Conservation Analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision; the Board may

approve a conventional development of the site. In order for the Planning Board to make such a determination, the applicant must demonstrate at least one of the following:

a. The land contains no substantial resources with conservation value

b. The acreage is too small to preserve a substantial amount of land with conservation value (this criterion shall not be evaded by piecemeal subdivision of larger tracts)

c. The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value

d. That there are extraordinary circumstances unique to the parcel that demonstrates that conventional subdivision is in the best interest of the adjacent neighborhoods

(2) In order to make the required showing above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.

§ 112-57. Dimensional requirements in conservation subdivisions.

A. There shall be no required width, depth, setback, or related dimensional standards in a Conservation Subdivision, with the following exceptions:

(1) Lots that are connected to central sewage and central water systems shall have no minimum lot size requirement.

(2) For lots that do not have either central water systems or central sewer systems (or have neither), the minimum lot size shall be established by the Planning Board based on site-specific soil conditions and the approval of the State Health Department.

(3) Where such subdivision abuts an existing residence, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the RA district.

B. In order to permit a clustered lot configuration, wells and septic systems may be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.

C. The applicant shall specify dimensional requirements for a proposed Conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat.

§ 112-58. Conservation subdivision design guidelines.

The following guidelines should be considered and may be required in the process of designing and siting houses in a conservation subdivision in the RA District. When locating new houses on the land there are many options in the siting, configuration, size and arrangement of elements in the landscape. These choices define the character of the developed landscape environment. These guidelines are examples of the preferred method to design and site uses but should not be considered the only acceptable solution.

A. Preservation of Scenic Features. Relate the location of structures to existing scenic features such as individual large trees within open fields, stone walls, hedgerows, historic buildings, and unpaved country roads if they exist on the site. Avoid locating structures in areas which disrupt the relationship of the rural features. Locating structures in the midst of an open field is discouraged.

B. Placement of Structures. Wherever practical, structures shall be sited to be as visually inconspicuous as possible, when seen from a distance and from lower elevations, and to minimize impact on open and agricultural lands. Wherever possible, the Planning Board may require that structures be located at the edge of the agricultural land to minimize the loss of such land.

C. Vegetation. Existing vegetation on-site shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks or other public views.

D. Wherever practical, buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees or hilltops.

E. Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

§ 112-59. Professional assistance.

The Planning Board, subject to the approval of the Town Board, may require an applicant for Conservation Subdivision to deposit in an escrow account an amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant,

engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

§ 112-60. Conservation value of open space.

The open space protected pursuant to this Section must have "conservation value," which shall be determined in the course of the Conservation Analysis.

§ 112-61. Permanent preservation of open space.

A. As part of the Conservation Subdivision process, a minimum of 25% of the gross acreage of the parcel is recommended to be permanently protected from development.

B. A permanent deed restriction or a conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes, shall be reviewed by the Planning Board. Such deed restriction or conservation easement shall be required as a condition of Final Plat approval.

C. The permanent protection shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation), and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.

D. Permanent open space may be preserved as a portion of one or more lots or may be contained in a separate open space lot.

§ 112-62. Notations on final plat.

Preserved open space land shall be clearly delineated and labeled on the subdivision Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The Final Plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by this Section, and shall include deed recording information in the County Clerk's office for the conservation easement.

§ 112-63. Ownership of open space land.

A. Open space land shall under all circumstances be protected but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

B. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
   (1) The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.
   (2) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
   (3) The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
   (4) The HOA must be able to adjust the assessment to meet changed needs.

C. The applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:
   (1) upon the failure of the HOA to take title to the open space from the applicant or other current owner, or,
   (2) upon dissolution of the association at any future time, or,
   (3) upon failure of the HOA to fulfill its maintenance obligations hereunder, or,
   (4) upon failure to pay its real property taxes.

D. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

E. The Town's Counsel shall find that the HOA documents presented satisfy the conditions in Subsections C.(1) through C.(4) above, and such other conditions as the Planning Board shall deem necessary.

§ 112-64. Maintenance standards.

A. Ongoing maintenance standards shall be established, enforceable by the town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation easement or for the storage or dumping of refuse, junk, or other offensive or hazardous materials.

B. If the Town Board finds that the maintenance provisions above are being violated, enforcement procedures as set forth in Article XIV shall be followed to obtain compliance.

ARTICLE X
Special Use Permit Review

§ 112-65. Intent.

The intent of this Article is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.

The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Town.

§ 112-66. Application content.

All special use permit review and approval shall occur as a part of any applicable Site Plan review. Applicants shall refer to Article VII Site Plan Review for application content.

§ 112-67. Criteria.

The Planning Board shall consider the following criteria when making a determination for a special use permit:

A. The operation of the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, hours of operation, illumination or other potential nuisance than the operation of any permitted use in the particular district.

B. The current or future capacity of community infrastructure and services, including but not limited to protective services, roadways, garbage collection, schools and water and sewer facilities, to accommodate the proposed use.

C. The adequacy of the soil capacity and natural features on the proposed site possesses to safely support proposed facilities and structures, including water and septic services at the site.

D. Compliance with the provisions of the Zoning Code, other applicable regulations and ordinances of the town, standards of New York State, and the town's Comprehensive Plan.

E. The adequacy and management of vehicular and pedestrian traffic patterns associated with the proposed use. Factors for the Planning Board to consider in making this determination include turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provision for pedestrian traffic, capacity of existing roads and minimizing pedestrian- vehicular circulation conflicts.

F. The compatibility of the location, design, layout, size and character of the proposed use with the appropriate and orderly development of the surrounding area.

G. The ability of the proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping to not interfere or discourage appropriate development of land adjacent to the proposed site or unreasonably affect its value.

H. Adequacy of screening, landscaping, lighting, hours of operation, signs, and architecture to mitigate any adverse impacts that might result from the proposed use on neighboring properties.

I. The development will be located and organized in a way which reflects the natural capabilities of the site to support such a use. Natural resources, as listed in Article IX of this chapter, will be maintained and preserved.

J. The existing landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil.

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

L. Consistency with the requirements of any applicable site plan approval for the proposed use.

§ 112-68. Site plan approval.

A. Site plan approval is required in the consideration of those special use permit uses involving new construction, or any land development activities not specifically excluded by §112-28 of this chapter. Such site plan review shall be carried out either in conjunction with or after, these special use permit procedures.

B. In cases where special use permits involving the conversion of an existing structure from one use to another with no physical changes to the site or structure, or which involve only those activities excluded from Site Plan Review, shall not require site plan review.

§ 112-69. Public hearing on special use permit.

A. The Planning Board will schedule a public hearing within sixty-two (62) days of the date of the meeting at which the application was considered complete for receipt by the Planning Board.

B. The Planning Board shall advertise notice of the public hearing in the town's official newspaper at least five and not more than 30 days before the hearing. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one advertisement notice is needed.

C. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one notice is required to be sent to each parcel owner.

D. After the conclusion of a public hearing for a special use permit, including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions, the special use permit within sixty-two (62) days.

§ 112-70. Planning Board action.

A. The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.

B. The decision of the Planning Board shall be filed in the office of the Planning Board Clerk, and a copy thereof mailed to the applicant.

§ 112-71. Special use permit expiration, revocation and enforcement.

A. A conditional special use permit approval shall expire at the end of six months if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of up to six additional months.

B. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.

C. A special use permit may be issued as:
   (1) Permanent, except where the permitted use is discontinued for any reason for a period of two (2) years or more.
   (2) Temporary, to cease on a specified date and not to be renewable.
   (3) Renewable within a specified period of time set by the Planning Board.

D. A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.

E. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

F. All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

ARTICLE XI
Nonconforming Uses, Structures and Lots

§ 112-72. Nonconforming uses. [Amended 1-05-2009 by L.L. 2 of 2009]

A. Continuation. Any nonconforming use which existed lawfully at the time of adoption of this chapter may be continued, subject to the following provisions.

B. Expansion, extension, modification, or replacement.

(1) Expansion

A nonconforming use shall not be enlarged beyond the area of the existing structure in which the use is located, which structure existed prior to adoption of this chapter, unless granted a special use permit from the Planning Board. Said expansion shall also be subject to site plan approval, to be considered at the same time as the special use permit application, where the Use Table of this chapter and the provisions of Article VII (Site Plan Review) require site plan approval for the expansion.

(2) Extension.

A nonconforming use which existed prior to adoption of this chapter may be extended within any portion of an existing structure in which it is located, and the same shall not be deemed an expansion of such nonconforming use, provided that such extension does not involve the physical expansion of the existing structure.

(3) Modification.

A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity unless such modification results in a use of the same or a less nonconforming nature. The determination of whether such modification results in an equal or lesser nonconformity shall be made by the Zoning Board of Appeals.

(4) Replacement.

If a nonconforming use is replaced by another use, such use shall conform to the use regulations of the district in which it is located.

C. Discontinuance.

If a nonconforming use is discontinued for a period of 24 consecutive months, such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the use regulations of the district in which it is located.

D. Continuance of non-conforming use.

(1) If any building or structure in which a nonconforming use is conducted is hereafter removed voluntarily, or destroyed by fire, wind, explosion, structural failure or other natural cause, the structure may be reconstructed or restored and the nonconforming use continued.

(2) Such restoration or reconstruction must not enlarge the structure beyond the original dimensions, and a valid building permit must be obtained within one year of the removal or destruction of the original structure.

§ 112-73. Nonconforming buildings and structures.

A. Continuation.

(1) Any nonconforming building or structure which existed lawfully at the time of adoption of this chapter may be maintained.

(2) Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this chapter, may be completed and used in accordance with the plans and specifications for such building or structure.

(3) Any owner of an existing nonconforming mobile home who desires to substitute a single-family home, a mobile home of superior construction, or to improve the facilities for the existing mobile home, such substitution or improvement shall be considered to be a continuation of such nonconforming use, and shall comply with the regulations set forth herein.

B. Modification and replacement.

(1) Modification.

(a) A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

(b) A nonconforming building or structure shall not be added to, enlarged, reconfigured or altered in any manner which increases its nonconformity.

(2) Replacement.

(a) A nonconforming building or structure may be replaced or rebuilt on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner which increases its nonconformity.

(b) After 24 months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

§ 112-74. Nonconforming lots.

A. In instances where an existing lot of record is nonconforming relative to lot size, and/or lot width, an area variance to waive these dimensional requirements is not required in order for a building permit to be secured. However, any new construction on a nonconforming lot must comply with all applicable required setbacks.

B. Buildings and structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the required setbacks of the district in which it is located.

ARTICLE XII
Administrative Provisions

§ 112-75. Notice of public hearing.

A. Each notice of hearing upon an application for site plan review, special use permit, planned development district application, the review of a variance application upon an appeal to the Zoning Board of Appeals, or any other public hearing required by this chapter, NYS Town Law or SEQRA shall be published once in the official newspaper of the Town at least five (5) and no more than thirty (30) days prior to the date of the hearing.

B. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. The notice shall be sent certified mail, return receipt requested.

C. The cost of the public hearing notice shall be included in the fee for the applicable review or permit. If subsequent, separate hearings are required by the reviewing board or requested by the applicant, the cost of additional notices and mailings shall be paid by the applicant prior to such notices being sent. This shall not include hearings held open or continued by the reviewing Board.

§ 112-76. Referral to County Planning Board.

A. Per §239—m and -n of Town Law, any variance application, site plan review, special use permit, planned development district application, or zoning change application within the following thresholds shall be referred to the Greene County Planning Board for their review and comment:
   (1) Within 500 feet of the Town boundary.
   (2) Within 500 feet of an existing or proposed county or state park or recreation area.
   (3) Within 500 feet of a right-of-way of any existing or proposed parkway, thruway, expressway, road or highway.
   (4) Within 500 feet of any existing or proposed county or state stream or drainage channel or easement.
   (5) Within 500 feet of the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
   (6) Within 500 feet of the boundary of a farm operation located in an agricultural district as defined by article 25-AA of the agriculture and markets law.

B. Within 30 days after receipt of a full statement of such referred matter, the Greene County Planning Board shall report its recommendations to the referring Town body. If the county fails to report within 30 days, the Town body may act without such report. If the county disapproves the proposal, or recommends modification thereof, the Town body having jurisdiction shall not act contrary to such disapproval or recommendation, except by a vote of a majority plus one of all the members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary action.

C. Within 7 days after final action by the Town body, a report of said final action shall be filed with the Greene County Planning Board.

§ 112-77. Referral to neighboring municipalities.

A. Per §239-nn of Town Law, the Town of New Baltimore shall give notice to an adjacent municipality when a hearing is held by such body relating to:
   (1) The granting of a use variance on property that is within five hundred feet of an adjacent municipality;
   (2) Site plan review and approval on property that is within five hundred feet of an adjacent municipality;
   (3) Special use permit review and approval on property that is within five hundred feet of an adjacent municipality;
   (4) A subdivision review and approval on property that is within five hundred feet of an adjacent municipality.

B. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least ten days prior to any such hearing.

C. Such adjacent municipality may appear and be heard.

§ 112-78. Records to be retained.

The original or a certified copy of all decisions, approvals, rulings and findings of any board under this Local Law, and of all permits and certificates issued under this article, shall be promptly to the Town Clerk and retained as a permanent Town public record.

§ 112-79. Assistance to boards.

Planning Board and Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be

reimbursed for any expenses incurred as a result of such assistance. The Planning Board and Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board.

§ 112-80. SEQR compliance.

The Planning Board and Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part Six Hundred Seventeen of the New York Codes, Rules and Regulations.

§ 112-81. Building Inspector.

A. The Building Inspector shall have the power and duty to administer and enforce the provisions of this Local Law. The Building Inspector shall be appointed by, and may be removed at the pleasure of, the Town Board. The Town Board may appoint Deputy Building Inspectors to exercise any or all of the duties of the Building Inspector.

B. Building Inspector Duties. The Building Inspector shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all laws and ordinances of the Town.

§ 112-82. Planning Board.

A. General Provisions
   (1) The Planning Board shall have all the powers and perform all the duties prescribed by state statute and by this Local Law. The Planning Board shall have original jurisdiction for all matters pertaining to this Zoning Law pursuant to state statute.
   (2) Legislative Intent. Pursuant to Article 16 and §271 of the Town Law, the Town Board of the Town of New Baltimore, by resolution on September 12, 1972, established the Town of New Baltimore Planning Board consisting of seven members with corresponding seven-year terms. This section is enacted pursuant to Municipal Home Rule §10 for the purpose of superseding a portion of Town Law §271 regarding the terms of members hereafter appointed to serve on the Town of New Baltimore Planning Board. Notwithstanding any contrary provisions of Town Law §271, the Code of the Town of New Baltimore, chapter,

ordinance, resolution, rules and/or regulations inconsistent herewith, members of the Town of New Baltimore Planning Board shall hereafter be appointed by the Town Board for terms of three years.

(3) Town Board eligibility. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.

(4) Service on other Planning Boards. No person shall be disqualified from serving as a member of the Town Planning Board by reason of serving as a member of the town or County Planning Agency.

(5) Rules and regulations. The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Local Law or any other statute, or under any Local Law of the Town. Adoption of any such recommendations by the Town Board shall be by Local Law.

(6) Report on referred matters. The Town Board may seek input from the Planning Board where their input would help the Town Board make a more informed decision. The Town Board may by resolution provide for the referral of any matter or class of matters to the Planning Board before final action is taken hereon by the Town Board or other office or officer of the Town having final authority. The Town Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report, or after the Planning Board has exceeded the time period set by the Town Board for the Planning Board to submit its report.

B. Training and attendance requirements.

(1) Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training requirements shall be established by resolution of the Town Board.

(2) To be eligible for reappointment to such board, such member shall have completed the training set forth by the Town Board.

(3) No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with these training requirements.

C. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

D. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

E. Chairperson duties. The Town Board annually shall designate a member of the Planning Board to serve as chairman. All meetings of the Planning Board shall be conducted by chairperson and at such times as the Town Board may determine. In the absence of the Chairperson, the Vice-Chairperson shall conduct the meetings. The Chairperson, or in his absence, the Vice-Chairperson, may call for special meetings of the Planning Board.

§ 112-83. Zoning Board of Appeals.

A. General provisions.

(1) Zoning Board of Appeals. The Zoning Board of Appeals shall have all the powers and perform all the duties prescribed by state statute and by this Local Law. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Zoning Law.

(2) Appointment of members. The Town Board shall appoint a board of appeals consisting of five members serving terms of five years, and shall designate the chairperson thereof. In the absence of a chairperson the board of appeals may designate a member to serve as acting chairperson.

(3) Town board members ineligible. No person who is a member of the Town Board shall be eligible for membership on such board of appeals.

B. Training and attendance requirements.

(1) Each member of the board of appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.

(2) To be eligible for reappointment to such board, such member shall have completed the training.

(3) No decision of a Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with these training requirements.

C. Vacancy in office.

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

D. Removal of members.

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any zoning board of appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

E. Chairperson duties.

All meetings of the Zoning Board of Appeals shall be conducted by the Chairperson and at such times as the Town Board may determine. In the absence of the Chairperson, the Vice-Chairperson shall conduct the meetings. The Chairperson, or in his absence, the Vice-Chairperson, may call for special meetings of the Zoning Board of Appeals.

ARTICLE XIII
Variances and Appeals

§ 112-84. Variances and appeals.

A. Area variance. The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this chapter. 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 or welfare of the neighborhood or community of such grant.

B. Use variances. The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the chapter. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

C. Appeals. Applicants, or any officer, department, board or bureau of the Town has the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this chapter to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the administrative official charged with the enforcement of this chapter, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

§ 112-85. Application.

A. Applications shall be in writing and must be filed with the Zoning Board of Appeals within sixty (60) days after the order, requirement, decision, interpretation, or determination that is being appealed. Such application shall refer to the specific provisions of this chapter involved and shall specify the grounds for the variance requested, the interpretation claimed, or the reversal of an order, requirement, decision, or determination of an administrative official and the relief sought.

B. The applicant shall supply the Zoning Board of Appeals with:
   (1) A completed application, on forms provided by the Town.
   (2) A legal description of the property.

(3) A map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof.
(4) Plans and elevations necessary to show the proposed variance.
(5) The color and construction materials of all structures.
(6) The requirement of a landscaping plan acceptable to the Board.
(7) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision.

§ 112-86. Hearing on appeal.

A. The Zoning Board of Appeals shall fix a reasonable time within sixty-two (62) days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper in the Town at least five (5) and no more than thirty (30) days prior to the date thereof.

B. The Zoning Board of Appeals shall advertise notice of the hearing in the town's official newspaper at least five and not more than 30 days before the hearing.

C. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. The notice shall be sent certified mail, return receipt requested.

D. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after such hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.

E. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify, any order, requirement, decision, interpretation, or determination made by officials charged with the enforcement of this chapter. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.

F. Imposition of conditions. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed variance. Such conditions shall be consistent with the spirit and intent of the chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community, and may be placed on use or area variances.

G. Rehearing.

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Zoning Board of Appeals not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights of persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

H. Stay upon Appeal.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and for due cause shown.

I. Expiration of Appeal decision.

Unless otherwise specified by the Zoning Board of Appeals and without any further hearing by the Zoning Board of Appeals, a decision on any appeal, including the granting of area and use variances, shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within one (1) year of the date on which the decision is filed. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Zoning Board of Appeals, who shall grant such extension if, in consultation with the Building Inspector, there have been no material changes in the circumstances surrounding the application.

§ 112-87. Area variance criteria and standards.

A. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such chapter, to grant area variances from the area or dimensional requirements of such chapter.

B. 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 any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following tests. Not all five tests are required to be met in order to grant the area variance.

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

C. The Zoning 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.

§ 112-88. Use variances criteria and standards.

A. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such chapter, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the chapter.

B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
(1) Under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
(2) 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) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
(4) The alleged hardship has not been self-created.

C. The Zoning 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 proved 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.

ARTICLE XIV
Enforcement

§ 112-89. Complaint; investigation; notice of violation.

A. Whenever a violation of this chapter occurs, any person may file a complaint in writing with the Building Inspector, who shall properly record such complaint and thereafter make an investigation within ten (10) days.

B. If, in the opinion of the Building Inspector, after such investigation there appears to be a violation of this chapter, the Building Inspector shall, within thirty (30) days of the date of such complaint, meet informally with the appropriate person or persons involved for the purpose of obtaining voluntary compliance with this chapter and shall set a reasonable compliance date therefor.

C. Where compliance with this chapter is not obtained in accordance with the procedure set above, in the opinion of the Building Inspector, within the time limits as set forth, the Building Inspector shall thereupon submit an appropriate report in writing of all proceedings to the Town Board at its next regularly scheduled meeting held after the date of compliance. A copy of such report shall also be given to the Zoning Board of Appeals, which shall be kept informed of all further proceedings.

D. The Town Board shall thereafter serve written notice of violation upon the appropriate person or persons responsible for the alleged violation, which such notice shall contain the following:
   (1) The specific nature and details of the violation.
   (2) Recommended action to remedy the situation and effect compliance with this chapter.
   (3) The date by which compliance must be met.
   (4) Notification of the right to a hearing before the Building Inspector and the Town Board.

§ 112-90. Hearings.

A. Upon written request within ten (10) days of the notice of violation, any person served with a notice of violation may request a hearing before the Town Board and Building Inspector.

B. At such hearing, such person shall present testimony or other evidence why he/she should not or is unable to comply with this chapter.

C. The Town Board, with the advice of the Building Inspector, shall decide upon all evidence presented whether to sustain, amend, or dismiss the notice of violation. If the notice is sustained or amended, the Town Board shall direct that the violation be removed or remedied and shall set a new compliance date by which such violation shall be removed or remedied in accordance with the original or amended notice.

D. Any specified date of compliance may be extended if, in the opinion of the Building Inspector and the Town Board, there is reasonable evidence of intent to comply and unusual conditions prevent compliance by the specified date. Written notice of any extension shall be sent to the person or persons in violation.

§ 112-91. Certificate of compliance.

The Building Inspector shall, within ten (10) days of the compliance date or any extended compliance date, re-inspect the alleged violation, and if, in his opinion, the violation has been remedied or removed and is in compliance with this chapter, he shall issue a certificate of compliance and report thereon to the Town Board and the Zoning Board of Appeals.

§ 112-92. Fines; penalties for offenses.

A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of the Town of New Baltimore Zoning Code, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to the aforementioned, or fail to comply with a notice, directive or order of the Building Inspector or agents thereof.

B. Any person who owns, controls or manages any building, structure or premises, and who shall fail to comply with a written directive, including a stop-work order of the Building Inspector or an agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or their agents, or any other person assisting in the construction or use of any building or structure, or in the land disturbance on or use of any premises who knowingly violates any of the applicable provisions of the Town of New Baltimore Zoning Code, or any lawful order, notice, directive, permit, certificate, approval or variance issued hereunder shall be punishable as follows:

(1) Civil penalties.

(a) First offense: fine not exceeding $500 or six months' imprisonment or both.

(b) Second offense: fine of not less than $500 or more than $1000, or up to six months' imprisonment, or both.

(2) Every such person shall be deemed guilty of a separate offense for each week such violations, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.

(3) Such fines or penalties may be compromised or released by the Town Board as a part of any disposition.

C. If a fine is imposed and is not paid within thirty (30) days or such other time period established by the Court, then following mailing of the Notice described herein, the unpaid fines shall be assessed by the Town as a lien against the fine debtor's real property in the Town and added to the current tax roll by the Town as an unpaid charge attributable to the real property. Prior to assessing this lien for unpaid fines, the Town shall mail a notice to the fine debtor at his/her last known address by regular first-class mail stating that unless the fines are paid within fifteen (15) days of the notice date, they will be assessed and collected as an unpaid charge attributable to the real property.

§ 112-93. Alternative or additional remedy.

In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for civil penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

§ 112-94. Stop-work order.

A. The Town Board for the Town of New Baltimore hereby grants the Building Inspector plenary administrative responsibility to immediately suspend any continuing violations of this chapter by posting a stop-work order on the premises wherein the violation has occurred.

B. Whenever the Building Inspector has reasonable grounds to believe that work on any building, structure or development of any premises is being undertaken or continued in violation of the provisions of this chapter or the provisions hereof, or other ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued, or not in conformity with the terms or conditions of a permit, approval or variance, he shall notify the owner of the property, or the owner's agent, to suspend all work, and such persons shall forthwith stop such work and suspend all building and development activities until the stop order has been rescinded or superseded by a court order.

C. Such order and notice shall be in writing, in accordance with the provisions of §32-6 of the Town Code.

D. Obtaining relief or release from a stop-work order may be obtained in the proper circumstances as follows:
   (1) If all provisions hereof, together with all other reasonable conditions specified by the Building Inspector or agent, are satisfied, upon the advice of the Planning Board, Zoning Board of Appeals, or Town Board as the circumstances of each case may require, an authorization of release or lifting of a stop-work order may occur.
   (2) In cases where a variance is sought to address some or all conditions which are the subject of the stop work order, the Building Inspector shall conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals upon issuance of the variance. Only those conditions of the stop work order which are addressed by the variance may be lifted.
   (3) In cases where site plan review or special use permit approval is sought to address the some or all conditions which are the subject of the stop work order, the Building Inspector shall conform or terminate the stop-work order in accordance with the requirements mandated by the Planning Board upon issuance of the site plan review approval. Only those conditions of the stop work order which are addressed by the site plan review approval may be lifted.

§ 112-95. Suspension of administrative review.

A. Processing and review of any application pursuant to the provisions hereof may be suspended and the application deemed incomplete with written notice to the applicant under the following circumstances:
   (1) A stop-work order has been issued by the Building Inspector or agent, related to the activity for which the permit is sought, or
   (2) Other written notice of an alleged violation has been delivered to the property owner or applicant related to the activity for which the permit is sought, or
   (3) A criminal or civil criminal action commenced against the property owner, applicant or other responsible person for alleged violations of law related to the activity for which the permit is sought or for alleged violation of the provisions hereof related to the site.

B. Such suspension of application processing may remain in effect pending final resolution of any enforcement action by an order of court or by a negotiated settlement of the pending violations between the responsible parties and the Town Board. In any appropriate case, the Building Inspector or agent, Planning Board or Zoning Board of Appeals, in their respective roles as reviewing authorities, may suspend review of an application.

§ 112-96. Misrepresentation.

Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

§ 112-97. Certificate of compliance/certificate of occupancy.

A. The Building Inspector shall issue a Certificate of Compliance or a Certificate of Occupancy as set forth in §32 of the Town of New Baltimore Code when conformity exists with the provisions of this chapter, including all conditions set forth under approved site plans or variances.

B. Notwithstanding any other provisions of this chapter, a Temporary Certificate, as authorized in §32 of the Town of New Baltimore Code, may be issued by the Building Inspector at such time as the conditions of §32-7 are met.

ARTICLE XV
Amendments

§ 112-98. Purpose of article.

The purpose of this Article is to allow for amendment to this chapter whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure of this article.

§ 112-99. Referrals.

When directed by the Town Board, the Town Clerk shall refer proposed amendments of this chapter to the Planning Board, and where required by §239-m of the General Municipal Law, to the County Planning Board having jurisdiction, for the report and recommendations by those bodies to the Town Board.

§ 112-100. Hearing and decision on proposed amendment.

The procedure as to the notice of a public hearing on an enactment of a proposed amendment shall follow and be governed by §265 of the Town Law, and §239-l, 239-m and 239-nn of the General Municipal Law, including all subsequent amendments thereto.

§ 112-101. Records of amendments.

The Building Inspector and the Town Clerk shall each maintain records of amendments to the text of this chapter and of the Town Zoning Map.

ARTICLE XVI
Definitions

§ 112-102. Definitions.

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

(1) ACCESS — Entranceway for vehicles to leave or enter a property or lot from a public highway or private road.

(2) ACCESS DRIVE — See "driveway."

(3) ACCESSORY STRUCTURE — A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

(4) ACCESSORY USE -- Any use which is incidental and subordinate to a permitted use and located on the same lot and such shall be under the same ownership.

(5) ACTUAL CONSTRUCTION -- The fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure.

(6) ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

(7) ADULT DRIVE-IN THEATER — A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.

(8) ADULT ENTERTAINMENT CABARET — A public or private establishment which receives its primary revenue from the presentation of topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

(9) ADULT MOTEL – A motel which is not open to the public generally but excludes minors by reason of age and which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

(10) ADULT MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist, barbershops or beauty salons. This definition shall not apply to establishments operated by certified or licensed massage therapists. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis

courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

(11) ADULT PEEP SHOWS — A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

(12) ADULT THEATER — A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.

(13) AGRICULTURE — The raising of crops, animals, animal products or fowl; forestry; and other commonly accepted agricultural operations for commercial purposes.

(14) AGRICULTURE, FIELD CROPS – Agricultural uses, farm operations, and/or orchards associated with the raising or processing of crops or beekeeping, including but not limited to field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans; fruits, including apples, peaches, grapes, cherries and berries; vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions; horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers; maple sap; and Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump. Field crops shall not include the raising or processing of livestock as defined herein.

(15) AGRICULTURE, LIVESTOCK – Agricultural uses and/or farm operations devoted to the raising of livestock and livestock products, including but not limited to cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs; as well as aquaculture products, including fish, fish products, water plants and shellfish.

(16) AGRICULTURE, PERSONAL ACCESSORY -- The production, keeping or maintenance, of plants and animals, as an accessory to a permitted use, where the sale of agricultural products is limited to those products produced on the lot and such sales are only permitted from a single temporary roadside stand or display.

(17) AGRICULTURAL SALES AND SERVICE - A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.

(18) ALTERATION, STRUCTURAL — To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts, interior plan or layout, the exterior architectural features or the exit facilities of a structure; or the relocation of a building from one location to another. Alterations are in excess of $10,000.

(19) APPLICANT — The person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

(20) AQUIFER — An underground geologic formation that contains and transmits significant quantities of groundwater.

(21) AREA, BUILDING — The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

(22) AREA, FLOOR — The total interior floor space measured in square feet of a structure.

(23) AREA, LOT — The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

(24) ART GALLERY – A structure for the preparation, sale, display or barter of paintings, sculpture, original, limited edition graphic arts and photographs or similar created by individual artists on a single piece basis, not to include home occupations.

(25) ASSISTED LIVING FACILITY – Residential facility which combines housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need assistance with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

(26) AUTOMOBILE RENTAL OR SALES — Establishments primarily engaged in the retail sale or rental of new and used vehicles, including automobiles, boats, and trailers, where service and repairs are incidental to the use, not to include the sale, service, or repair of commercial vehicles.

(27) AUTOMOBILE REPAIR -- Any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered. Automobile repair as defined herein does not include the repair or service of commercial vehicles.

(28) AUTOMOBILE SERVICE STATION -- Any area of land, including structures thereon, that is used for the sale of gasoline, oil, other motor vehicle fuels, or products designed to be used for lubricating, washing, cleaning, or otherwise servicing automobiles, including a convenience store, provided that the store is an integral part of the gasoline or service station, but excluding the activities permitted with an automobile repair center, and the use of mechanical car washing equipment.

(29) AVERAGE DAILY TRAFFIC — The average number of vehicles per day that either enter or leave a specific location or travel over a specific section of road.

(30) AVERAGE PEAK-HOUR TRAFFIC — The average number of vehicles per hour. at the time of peak traffic volume, that either enter or leave a specific location or travel over a specific section of road.

(31) BASE FLOODPLAIN — See "one-hundred-year flood area."

(32) BILLBOARD — See "sign, off-premises".

(33) BOAT STORAGE, INDOOR COMMERCIAL -- A structure used to store more than three boats, not registered to family members for 30 consecutive days or more.

(34) BUFFER AREA — An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

35) BUILDING – A structure designed to be used as a place of occupancy, business, storage or shelter. The term "building" shall include the term "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers, mobile structures and modular structures used for commercial purposes.

(36) BUILDING AREA COVERAGE – The percentage of the lot area covered by the combined area of all buildings on the lot.

(37) BUILDING, PRINCIPAL — The building on a lot that houses the primary use on a parcel of land.

(38) CAMPGROUND -- Any area designated for transient occupancy by camping in tents, camp trailers, motor homes, transient mobile homes, truck campers, or pickup campers or similar facilities designated for temporary shelter and shall not have provide more than 50 individual camp sites.

(39) CAR WASH — A building, or portion thereof, containing facilities for washing automobiles, using production-line methods or other mechanical devices; or providing space, water equipment, or soap for the complete or partial hand washing of automobiles, whether by operator or by customer. A car wash does not include facilities for washing commercial vehicles.

(40) CEMETERY -- Land used or intended to be used for the burial or deceased human beings and dedicated for cemetery purposes.

(41) CHANGE IN USE (CONVERSION) — The change of use or occupancy of a building from either residential, commercial, or industrial to one of the other uses, or a change in the intensity of the same use.

(42) COLD STORAGE – Warehouses featuring controlled atmosphere intended for the storage of produce, processed and/or packaged agricultural products.

(43) COMMERCIAL HORSE BOARDING OPERATION – An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses. Horse boarding operations which are under this threshold, either in respect to size, number of horses boarded, or both, shall be considered Personal Accessory Agricultural uses.

(44) COMMERCIAL VEHICLE -- A vehicle whose Gross Vehicle Weight exceeds 5 tons (10,000 lbs), or a vehicle having more than two axles, or a vehicle greater than 8' in height.

(45) COMMERCIAL VEHICLE REPAIR – Any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of commercial vehicles is conducted or rendered,

including facilities for washing commercial vehicles, using production-line methods or other mechanical devices; or providing space, water equipment, or soap for the complete or partial hand washing of commercial vehicles, whether by operator or by customer. Commercial vehicle repair as defined herein does not include the repair or service of automobiles or car washes.

(46) COMMUNITY FACILITY -- A building or structure owned and operated by a governmental agency or a not-for-profit entity to provide a public or semipublic service, such as schools, libraries, museums, governmental buildings, firehouses, and churches.

(47) CONTRACTING BUSINESS – An office and/or shop which contains a contractor's business office, and which may also include enclosed structures used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials.

(48) CURB-CUT — A defined opening to provide vehicular access from a public highway to a lot or property.

(49) DAY-CARE CENTER -- A site, building, or place designed and/or operated to provide day care and/or instruction for twelve or more persons and operated on a regular basis for a fee.

(50) DENSITY — Minimum area per dwelling unit or structure; the total usable area of any parcel of land to be developed.

(51) DISTRIBUTION CENTER - Building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlet, not to include a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

(52) DRAINAGE — A system of swales, ditches and culverts, catchbasins and/or piping to convey stormwater runoff to retention areas and stabilized discharge points.

(53) DRIVEWAY — Private entrance drive that commonly leads to the principal use.

(54) DWELLING — A complete self-contained residential unit for permanent habitation by one family only and containing one or more rooms and facilities for living, including cooking, sleeping, and sanitary needs.

(55) DWELLING, ATTACHED — A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

(56) DWELLING, DETACHED — A dwelling which is not attached to any other dwelling by any means.

(57) DWELLING, MANUFACTURED HOME — A structure used primarily as a residence, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

(58) DWELLING, MULTIPLE-FAMILY — A building, portion of a building, or group of buildings on one lot containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

(59) DWELLING, TWO-FAMILY — A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

(60) EASEMENT — The right to use the land of another, obtained through the lawful acquisition of use rights from a landowner, for a special purpose consistent with the property's current use.

(61) EGRESS — A one-way access from a property leading onto a public highway or private road.

(62) ENVIRONMENTAL ASSESSMENT FORM (EAF) — A form used to determine whether a project will have significant environmental impacts. Depending on a site's environmental features and a project's magnitude, either a short or long SEQRA environmental assessment form will be completed.

(63) ENVIRONMENTAL IMPACT STATEMENT (EIS) — A document prepared pursuant to SEQRA subsequent to a determination of potential adverse impacts that examines the existing and developed environment and identifies and presents impacts, mitigation measures, and alternatives.

(64) EQUIPMENT REPAIR AND RENTAL - An establishment providing the rental and/or repair of tools, lawn and garden equipment, party supplies and similar goods and equipment. This term does not include automobile rental, sales, or repair.

(65) EROSION – The wearing away of surface soils by action of wind and/or water.

(66) EROSION CONTROL — Use of reseeding, revegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.

(67) EXTRACTION, PRIVATE -- Any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land, not to include private gardening or landscaping activities, or any extraction for the purpose of sale of less than 750 cubic yards in any one-year period.

(68) FAMILY – One or more persons living together as a single housekeeping unit and maintaining a common household.

(69) FIRE LANE - Access for emergency fire-fighting vehicles.

(70) FLOOD HAZARD, AREA OF — Land subject to a one-percent-or-greater chance of flooding in any given year. Also commonly referred to as "base floodplain" or "100-year flood area."

(71) FLOODWAY — See "Regulatory Floodway."

(72) FRONTAGE – That part of a property bounded by either a public or private road.

(73) FUEL DISTRIBUTION – A business engaged in the distribution of fuel products and/or petroleum products, but which does not rely on on-site storage of such products.

(74) FUEL STORAGE - The storage of chemicals, petroleum products and other materials in above-ground containers for subsequent resale to distributors or retail dealers or outlets.

(75) FUNERAL HOME -- A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.

(76) GAME PRESERVE -- A land area used for the protection of wildlife, usually because of its unique natural character, which provides habitat, food or shelter for wildlife.

(77) GRADING — The leveling of land for site development purposes, including construction of roads, building construction, drainage areas and parking.

(78) GREEN ROOF - A roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane.

(79) GROSS FLOOR AREA — The total interior area of a building, multiplied by the number of floors.

(80) GROSS LEASABLE AREA — The total floor area designed for tenant occupancy and exclusive use, expressed in square feet.

(81) HOME OCCUPATION — Any occupation or profession which is an accessory use and is conducted within the dwelling unit or associated accessory structures.

(82) IMPERVIOUS SURFACE COVERAGE — The percentage of the lot covered by buildings, parking areas, walkways or other surfaces covered with a paved surface or a surface that is impervious to water.

(83) INDUSTRIAL SERVICES – Establishments providing industrial services to individuals or businesses. This includes, but is not limited to: dry cleaning plants; metal, machine and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication, assembly, and repair.

(84) INGRESS — A one-way access from a public highway or private road leading into a lot or property.

(85) JUNKYARD — A building, structure or premises where junk or junkyard waste associated with discarded or salvaged materials are bought or sold, exchanged, stored, collected, sorted, dismantled or otherwise processed. including automobile wrecking yards, and yards for house wrecking, structural steel materials and equipment, but not including premises used for the purchase or storage of used furniture and household equipment or used cars in operable condition. A junkyard includes a parcel of land containing one or more unregistered, inoperable motor vehicles.

(86) KENNEL — A commercial or non-profit establishment that houses dogs, cats, or other domestic animals more than six months of age and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

(87) LAUNDROMAT — A business premises equipped with individual clothes washing and/or drying machines for use by retail customers, exclusive of any laundry facilities provided as an accessory use in an apartment.

(88) LIGHT MANUFACTURING – The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

(89) LODGING, BED AND BREAKFAST -- A dwelling having a resident host in a single-family home with common dining and leisure rooms and lodging rooms for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The Bed and Breakfast establishment shall have not more than six (6) guest rooms.

(90) LODGING, INN -- A commercial facility, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 12 guest rooms.

(91) LODGING, MOTEL/HOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers and providing for accessory off-street parking facilities.

(92) LOT — A parcel of land that is recognized as a separate, legal entity for the purposes of transfer of title and whose boundaries are established by some legal instrument such as a recorded deed or map.

(93) LOT, CORNER – A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

(94) LOT COVERAGE — The percentage of the lot area covered by the combined area of all buildings and structures.

(95) LOT DEPTH — The mean horizontal distance between the front and the rear lot lines, measured in the general direction of its side lot lines.

(96) LOT LINES — Any line dividing one (1) lot from another.

a. LOT LINE, FRONT — The property line dividing a lot from a public or private street and from which the required front setback is measured.

b. LOT LINE, REAR — A lot line which is opposite and most distant from the front lot line, and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

c. LOT LINE, SIDE — A lot line other than a front or rear lot line.

(97) LOT WIDTH – The distance between the two (2) side lot lines measured at the required setback line.

(98) LUMBERYARD – A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

(99) MALL — See "shopping center."

(100) MANUFACTURED HOMES - A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of Article 21-B of the Executive Law of New York State except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code. The definition of manufactured homes shall not include self-propelled recreational vehicles, travel trailers, or modular structures.

(101) MARINA — A facility providing docking or mooring for boats together with ancillary uses such as sale of fuels, boats, and boating parts and accessories.

(102) MODULAR STRUCTURES — A structure designed primarily for residential occupancy, constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.

(103) NET FLOOR AREA — The total useable interior floor area of a structure (excludes such elements as walls, stairwells, elevators, etc.).

(104) NURSERY: A building or structure and lands for the growing of flowers, fruits, vegetables, plants, shrubs, trees or other similar vegetation, together with garden accessories which are sold at retail from such building or lot to the general public.

(105) OFF-STREET PARKING — Area provided for parking not on any public or private road.

(106) OFFICES, MEDICAL— Any structure(s) used wholly for the purpose of providing human health care, including clinics, hospitals and group health practices.

(107) OFFICE PARK- A group of contiguous or adjacent office buildings, on a single lot or a group of lots, planned as a total entity with supporting ancillary uses and employee parking provided on-site. Office Parks include, but are not limited to, medical or dental, professional, clerical, and administrative offices. Retail and

service uses that are permitted within the underlying zoning district may be incorporated into the office park as an accessory use. These accessory uses may include, but are not necessarily limited to, restaurants, coffee shops, barber shops, dry cleaners, and banks. An office park excludes

(108) OFFICES, PROFESSIONAL – The use of offices and related spaces for such professional, business, or administrative services that are provided by attorneys, architects, engineers and similar professions. A professional office excludes uses permitted in a "medical offices/clinics" and "retail, service".

(109) ONE HUNDRED-YEAR FLOOD AREA — Area where there is a one-percent-or-greater chance of flooding in any given year.

(110) PARENT PARCEL – A parcel of land that is proposed by an applicant to be the subject of a development proposal.

(111) PARKING SPACE — The area required for parking one automobile, which shall be a minimum of 20 feet long and 10 feet wide, not including passageways.

(112) PEAK HOURS OF OPERATION — The hours of operation in any average four-hour period of a nonresidential use, which may represent the time of heaviest production or of customer or employee traffic, depending on the nature of the use.

(113) PEAK SEASON — The weeks or months or any period within an average year when the most activity occurs for a given use or group of uses or for an area.

(114) PERSONS — Any individual, group of individuals, partnership, firm, corporation, association, government agency or other legal entity.

(115) PERSONAL SERVICE ESTABLISHMENTS— An office, store or other place of business catering to the needs of a customer with only incidental sale of merchandise, such as normally conducted by a barber, beautician, tailor or dressmaker, excluding tattoo parlors or body-piercing establishments.

(116) PHASED DEVELOPMENT — Development that occurs in defined stages (e.g. a twenty-unit townhouse project built in two separate ten-unit stages).

(117) PICKUP CAMPER – A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(118) PLACES OF WORSHIP -- (1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; (2) a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

(119) PRINCIPAL USE – See "Use, Principal".

(120) RECREATION, CLUB -- A group of people organized for a not-for-profit purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and constitution and bylaws. A lodge used for meetings by fraternal organizations shall be considered a "club" so long as it is not used for dwelling purposes. Commercial organizations, such as but not limited to tennis clubs, racquet clubs and physical fitness clubs, or other indoor recreation facilities, shall not be considered clubs.

(121) RECREATION, FIRING RANGES – Establishments primarily engaged in providing opportunities for hunting, fishing, skeet, trap, target shooting and other shooting sports.

(122) RECREATION, INDOOR – A building or structure used primarily for the operation of commercial or nonprofit recreation, including, but not limited to, health and exercise clubs, skating rinks, bowling alleys, indoor sports clubs, indoor swimming pools, golf domes, pool or billiards, foosball, table tennis, shuffleboard, pinball machines, and/or video or other games. Indoor Recreation includes any accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. Recreation clubs as defined above shall not be considered indoor recreation.

(123) RECREATION, OPEN SPACE -- Any principal recreation use, conducted for other than personal use and not to include uses accessory and incidental to other principal residential or commercial uses, particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices, rides, or motorized vehicles. These recreational uses may include a cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, public parks, and public beach for activities such as soccer, baseball, football, tennis and water-related activities.

(124) REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study.

(125) REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts, for the purpose of maintenance.

(126) RESEARCH AND DEVELOPMENT FACILITIES – Buildings or portions of buildings used primarily for scientific, medical and/or high tech research, development and product or equipment design activities in a setting which combines offices and laboratories and may include small-scale manufacturing.

(127) RESTAURANT, DRIVE-THRU – An establishment which serves food and beverages in which food may be ordered by patrons in vehicles and/or whose design or method of operation includes a window designed to accommodate automobile traffic.

(128) RESTAURANT, FULL SERVICE — An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tearooms, outdoor cafes, coffee shops and banquet/reception halls.

(129) RETAIL, GENERAL - Establishments providing goods or merchandise to the general public, for a fee, such as, but not limited to, food stores, pharmacies, variety stores, apparel, hardware, and supermarkets.

(130) RETAIL, NEIGHBORHOOD - A building less than 5,000 gross square feet used for the retail sale of a variety of goods and professional offices catering primarily to pedestrian traffic. Such goods may include, but not be limited to, general retail items such as newspapers and magazines, dairy products, baked goods, beverages, fresh or prepared foods such as sandwiches and coffee, fresh fruits and vegetables, and minor amounts of canned foods, dry goods and which may also include limited seating for on-site consumption without wait service.

(131) RETAIL, SERVICE – Establishments providing services to the general public, for a fee, such as, but not limited to, banks, accountants, realtors, dry cleaners, educational services, with only incidental sale of merchandise.

(132) RETAIL, SHOPPING CENTER — A group of stores, shops, and similar establishments occupying adjoining structures all of which may be deemed one building if designed as an architectural unit and if provided with adequate space in the rear for loading and unloading commodities.

(133) RIDING ACADEMY – An establishment in which horses may be hired for riding, and where riding lessons and/or public horse shows are offered to the public and to individuals that do not own or have a long-term lease for the horse boarded and used at the facility for such riding. Riding academies do not include commercial horse boarding operations.

(134) ROAD — A public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such which affords the principal means of access to abutting property.

(135) ROAD, PRIMARY – Where the subject property has frontage on two or more roads, this refers to the road that is used most intensively (i.e. has the greater volume of vehicular traffic). This usually corresponds to the public road classification and size, assuming county roads receive greater traffic than local roads and that state highways have greater traffic volumes than county roads.

(136) ROAD, PRIVATE — An access drive or roadway privately owned and maintained and not meant for use by the general public.

(137) ROAD, RIGHT-OF-WAY — An area defined by a boundary that provides for road construction, maintenance, improvement and/or widening.

(138) ROAD, SECONDARY — Where the subject property has frontage on two or more roads, this refers to the road used less intensively (See "road, primary").

(139) ROADSIDE STAND – A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

(140) RUNOFF – Surface water that flows onto, within and/or off the site area.

(141) SAWMILLS – See “Lumberyards”.

(142) SCREENING — Vegetation, fencing or earthen materials used to block visibility toward and/or away from a site or to lessen noise impacts from a particular site or from adjacent land uses.

(143) SEDIMENT — Soils or other surficial materials transported by surface water as a product of erosion.

(144) SEDIMENTATION (SILTATION) — The deposition of sediment and silt in drainage ways, watercourses and waterbodies which may result in pollution, murkiness, accumulation and blockage.

(145) SELF-STORAGE – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

(146) SEPARATION DISTANCE — Distance between the two closest points of reference between two facilities, structures, uses or properties (e.g. the distance between an on-site septic system absorption field and a well).

(147) SEPTIC SYSTEM, CONVENTIONAL – A subsurface sewage disposal system, which consists of the following: A septic tank to collect water and waste materials being discharged from occupancy, where a natural anaerobic (nonoxygenated) digestion occurs allowing the separation and settling out of solids, to allow a gray water discharge at outlet of septic tank going to: A leaching system that consists of either a series of perforated drainage tile fields or seepage pits to allow for ground absorption. (See §§ 87-8 through 87-10, Sewers, Chapter 87, Article 1 of this Chapter.)

(148) SEPTIC SYSTEM, ALTERNATIVE — Systems that do not conform to the site and design criteria for conventional septic systems as described above are considered alternative systems. Any system meeting requirements for alternative systems (described in New York State Health Department Standards Appendix 75-A) must have plan preparation and installation supervision by a design professional and filed with the Department of Health.

(149) SEQRA REVIEW (STATE ENVIRONMENTAL QUALITY REVIEW ACT) — Review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617, (Statutory Authority: Environmental Conservation Law, § 8-0113), as amended, which incorporates consideration of environmental, social, and economic factors into the planning, review, and decision-making processes of state, county and local government agencies.

(150) SETBACK — The minimum distance required for compliance with this chapter as measured by the shortest horizontal line between any portion of any structure and the lot line, man-made structure or topographical or natural feature designated as being the reference point from which such minimum setback is measured.

(151) SIGHT DISTANCE – The length of roadway ahead visible to the driver. The minimum sight distance available on a roadway should be sufficiently long enough to enable a vehicle traveling at or near the designated speed to stop before reaching a stationary object in its path.

(152) SIGN — An identification, description, illustration or device, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or

situated merchandise, or any logo, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. "Sign" shall also include all sign structures. “Sign” shall not include any display of official court or public office notices, nor any official traffic control devices, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group.

(153) SIGN, ABANDONED — A sign which for a period of 90 consecutive days has not correctly directed or exhorted any person or advertised a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

(154) SIGN, BUILDING— A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 18 inches from such building or structure.

(155) SIGN, CONSTRUCTION— A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar persons or firms having a role or interest with respect to the structure or project.

(156) SIGN, DIGITAL — A dynamic sign with a specialized form of slivercasting or similar technology in which video or multimedia content is displayed in public places for informational or advertising purposes.

(157) SIGN, DIRECTIONAL— Any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, restrooms, pickup and delivery areas and the like.

(158) SIGN, DOUBLE-FACED— Any two-faced sign utilizing both faces or surfaces for display purposes.

(159) SIGN, FREESTANDING — A sign that is attached to, erected on or supported by some structure such as a pole. mast, frame or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

(160) SIGN, GOVERNMENT— A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law or ordinance or governmental regulation.

(161) SIGN, ILLUMINATED— Any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign surface or which reflects lights from a source intentionally directed upon it.

(162) SIGN, NON-COMMERCIAL -- A sign that does not contain information or advertising for any business, commodity, service, entertainment, product or other attraction including murals and works of art.

(163) SIGN, OFF-PREMISES — Any sign advertising or calling attention to any business or activity not located on the same continuous parcel of real estate as the sign, or any sign advertising or calling attention to any commodity or service not sold or offered upon the same continuous parcel of real estate as the sign.

(164) SIGN, OFF PREMISES (BILLBOARD) DIGITAL — Any off premises billboard sign which incorporates, in whole or in part, a digital sign.

(165) SIGN, POLITICAL A temporary sign announcing or supporting political candidates or issues connected with any national, state or local election.

(166) SIGN, PORTABLE — Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

(167) SIGN, REAL ESTATE A sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.

(168) SIGN, ROOF— Any sign erected upon, against or directly above a roof or on top of or about the parapet of a building.

(169) SIGN, TEMPORARY — Any sign permitted pursuant to the provisions of this chapter other than a permanent sign.

(170) SIGN, WALL — A sign mounted on, or fastened to, a wall.

(171) SILTATION CONTROL – Placement of siltation barriers such as sod, matting, hay bale barriers, or silt fencing or other methods to prevent pollution and blockage of watercourses and waterbodies by silt and other sediment.

(172) SITE PLAN — Maps, drawings, supportive data describing the project proposal or development plan for one or more lots on which are shown the existing or proposed conditions of the lot, submitted to the Planning Board for review and approval.

(173) SKETCH PLAN — Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review, which may be used as the basis for preparing the site plans for Planning Board review.

(174) SKETCH PLAN CONFERENCE — Initial Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements be prior to submitting the site plan.

(175) STACKING LANES — Off-street temporary parking space specifically provided for vehicles to park behind one another while waiting for drive-up customer assistance. This type of parking is required for bank windows, fast-food restaurants, car wash bays, etc.

(176) START OF CONSTRUCTION — Applies to improvements of $10,000 or more and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property and shall include land preparation such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or sheds), storage trailers and building materials.

(177) STRUCTURE — Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings and mobile homes. An accessory structure is one constructed on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

(178) TAVERN - An establishment used primarily for the serving of liquor by the drink to the general public and where food may be served or sold only as accessory to the principal use and where entertainment may be provided.

(179) TELECOMMUNICATIONS TOWER – Any structure greater than 35 feet in height which is specifically designed for receiving and/or transmitting signals (for the purpose of communications).

(180) THEATER - A building or part of a building, devoted to showing motion pictures, or for dramatic musical or live performances and which may include dinner theaters.

(181) TRAVEL TRAILER - A portable vehicle which is designed to be transported on its own wheels, which is designed intended to be used for temporary living quarters for travel, recreational or vacation purposes and which may or may not include one (1) or all of the accommodations and facilities included in a mobile home.

(182) TRUCK TERMINAL - A building or area in which freight brought by truck is assembled and/or stored for routing in shipment by truck.

(183) USE, ACCESSORY — Any use which is incidental and subordinate to a permitted use and located on the same lot and such shall be under the same ownership.

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

(185) USE, SPECIAL PERMIT — A use that would not normally be appropriate generally or without restrictions throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such use may be permitted in such zoning district as a special permit use, provided that specific provision for such is made in the district and a permit is obtained in accordance with this chapter.

(186) VARIANCE — A relaxation of this chapter approved by the Board of Appeals owing to conditions peculiar to the property and not the result of actions by the applicant, a literal enforcement of which would result in unnecessary and undue hardship.

(187) VETERINARY CLINIC/ANIMAL HOSPITAL – A building or portion of a building where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

(188) WAREHOUSE – A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles, not intended for

subsequent shipment to a retail outlet. Warehousing does not include individual/personal storage units, and does not include wholesale or retail sales, or distribution centers.

(189) WATERBODY — Any natural or manmade body of water such as a pond, lake, wetland or wet area that does not necessarily flow in a definite direction or course.

(190) WATERCOURSE — A natural or artificial channel for passage of water either continuously or intermittently.

(191) WATER, GROUNDWATER — Water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

(192) WATERSHED – The area which is a drainage basin for a particular freshwater body.

(193) WATER, SURFACE – Water contained in streams, rivers, ponds, wet areas, lakes and other waterbodies and watercourses or that drains across land.

(194) WETLANDS — Applies to all areas defined as "wetlands" by state or federal law or regulation.

(195) WINDMILLS – Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

ARTICLE XVII
Repealer

§ 112-103. Repeal of prior zoning ordinance and inconsistent chapters of town code. [Amended 1-05-2009 by L.L. 2 of 2009, and 11-14-2016, by Local Law # 4 of 2016]

A. The Ordinance entitled "Town of New Baltimore Zoning Ordinance" adopted as of October 1977, together with all changes and amendments thereto is hereby repealed and declared to be of no effect.

B. Chapter 73 of the Code of the Town of New Baltimore, entitled "Mobile Home Law of the Town of New Baltimore", Chapter 89 of the Code of the Town of New Baltimore, regulating all on-premise signs currently existing or yet to come into existence within the Town of New Baltimore, and Chapter 90 of the Code of the Town of New Baltimore, entitled "Town of New Baltimore Site Plan Review Law", are hereby repealed and declared to be of no effect.

C. Local Law #2 of 2009 entitled "Town of New Baltimore Zoning Law" and known as Chapter 112 of the Town Code together with all changes and amendments thereto is hereby repealed and declared to be of no effect.

§ 112-104. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 112-105. Effective date.

This Local Law shall take effect upon filing with the Secretary of State.