

# **Village of Schoharie**

## **Land Use Law**

### **September 2017**

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**Village of Schoharie Local Law 2 of 2017**  
**A Local Law Updating the Village of Schoharie Land Use Law**

Be it enacted by the Town Board of the Village of Schoharie, Schoharie County, New York, as follows:

**1-1 Title**

This Local Law shall be known and may be cited as “The Village of Schoharie Land Use Law of 2005.”

**1-2 Scope**

This local law regulates the location, design, construction, alteration, occupancy, and use of structures and the use of land in the Village of Schoharie, dividing the Village into zoning districts or land use areas.

The Village of Schoharie Land Use Law is written with the overriding goal of promoting the rural, small town character of Schoharie.

This Land Use Law focuses on the impact a land use may have on the community as a whole rather than focusing on uses permitted in a land use area. Accordingly, this Land Use Law is written to permit a wide variety of uses. Each of the allowable uses is subject to performance standards.

**1-3 Interpretations**

This local law shall be construed broadly to fulfill the purposes stated above and in Section 1-5, below.

**1-4 Enacting Clause**

This law is adopted for all of the purposes set forth in Article 7 of the New York State Village Law, and Article 10 of the New York State Municipal Home Rule Law ~10, to protect the public health, safety, morals, comfort, convenience, economy, aesthetics, general welfare, and natural, agricultural, and cultural resources, and for the purposes as listed in ~1-5 of this Law.

**1-5 Purposes**

The purpose of this Land Use Law is to implement the Village portion of the Town and Village of Schoharie Comprehensive Plan (hereinafter the “Comprehensive Plan) adopted by the Town in January 1997 and the Village in February 1997. This Land Use Law shall, therefore, be interpreted in accordance with the goals as described below, and the objectives and recommendations of the Comprehensive Plan, and any subsequent update to the Village Comprehensive Plan.

The overriding goal to be achieved by this law is to maintain and enhance the unique features of the community that make Schoharie a quality place to live, to maintain the rural, small town character of the community, to promote economic development activities consistent with the expectations of the community, and to enhance the quality of life in the Village. This law implements the range of subject matter contained in the Comprehensive Plan. Specific purposes are as follows:

1. To conserve the natural resources and rural character of the community by encouraging development in the most appropriate locations and by strictly limiting building in areas where it may conflict with the Village’s traditional development pattern and scale of settlement;

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2. To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as higher elevations, scenic viewsheds, steep slopes, erodible soils, stream corridors, wetlands, floodplains, and active farmlands;
3. To preserve and protect lands and buildings that are historically significant;
4. To enhance the aesthetic and architectural quality of the entire community, and to maintain its natural beauty;
5. To encourage agriculture to continue and prosper because of its importance to the local economy, cultural identity of the Village of Schoharie and to the preservation of open space;
6. To protect waterways, ground and surface water supplies, ecological systems, wetlands, wildlife habitat, and natural vegetation, and to maintain the unique small town character of the Village;
7. To integrate different kinds of land uses traditionally found in the village thereby encouraging community and economic interaction and pedestrian activity, and to reduce unnecessary automobile traffic.
8. To protect residences from nuisances, odors, noise, pollution, and other unsightly, obtrusive, and offensive land uses and activities;
9. To locate commercial and other non-residential uses in a manner that is convenient to residences, minimizes use of automobiles, and provides freedom for landowners to make beneficial economic use of their land, if such uses are not harmful to neighboring properties;
10. To regulate building density to concentrate population in appropriate locations while allowing reasonable privacy for residences, ensure access to light and air, conserve open space, facilitate the prevention and fighting of fires, and minimize the cost of municipal services;
11. To promote appropriate use of lands for recreational purposes in a manner which also preserves the intrinsic character of the Village and to promote waterfront uses that benefit both the health of residents, and improves the economic sustainability of Schoharie.

### 1-6 Conflict

As provided in Section 10 of the New York State Municipal Home Rule Law the following sections of the New York State Village Law are hereby superseded by this Local Law: Section 7-718.

### 1-7 Effective Date

This local law shall take effect immediately upon filing in the New York State's Secretary of State's Office in accordance with Section 27 of the Municipal Home Rule Law of the State of New York.

## 1-8 Severability

If any provision of this local law or the application thereof to any person, property, or circumstances are held to be invalid, the remainder of this local law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

## 1-9 Repeal

This Land Use Law shall supersede all other versions of the Village of Schoharie Land Use Law. All previous versions shall be repealed and replaced with this local law. All other previous ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed, including the chapters 29 ("Planning Board"), 103 ("Gasoline Stations"), and 179 ("Zoning").

# Chapter 2 Land Use and Overlay Areas

## 2-1 Purposes

In addition to the primary purposes of this Local Law, the following performance standards are designed to lessen congestion in the streets, to secure safety from fire, flood and other dangers, to promote health and general welfare, to provide adequate light and air, to prevent the over-crowding of land, and to encourage the most appropriate use of land throughout the Village.

## 2-2 Districts within the Village Land Use Area

The following land use areas are established:

A	Agriculture
F/A	Floodway/Agriculture
W	Waterfront
R	Residential
CBD	Central Business District
C	Commercial
I	Industrial
PDA/SCA	Planned Development Area/Senior Citizen Residential
P	Open Space/Park Land

In addition to the above districts, the following overlay districts are established:

FPD	Flood Protection
H	Historic Overlay District
MF/MU	Multi-family and Mixed Use Overlay District

## 2-3 Land Use Area Goals

The goals of each of the above land use areas are as follows:

A (Agriculture): (1) The intent of the Agriculture (A) Land use area is to maintain the natural functioning of the floodplain of the Schoharie Creek and to provide a consistent level of floodplain best management practices that minimize impacts to the creek and on flooding, and to minimize flood



damage. A further purpose of the A Land use area is to allow for agricultural activities to continue and a higher density of residential development, and to

- (a) To preserve the natural functioning of the floodplain along the Schoharie Creek.
- (b) To encourage agriculture and agriculturally-related land uses and a higher density of compatible land uses in the floodplain along the Schoharie Creek.
- (c) To recognize this area is within the 100-year floodplain and significant risks to flooding exist and that development must be conducted in a manner that minimizes risks and flood damage.
- (d) To allow reasonable uses of lands that are compatible with the other purposes of the land use area.

F/A (Floodway/Agriculture): (1) The intent of the Floodway/Agriculture (F/A) Land use area is to maintain the natural functioning of the floodway of the Schoharie Creek and to provide a consistent level of floodplain best management practices that minimize impacts to the creek and on flooding, and to minimize flood damage, and to:

- (a) To preserve the natural functioning of the floodway along the Schoharie Creek.
- (b) To encourage agriculture and agriculturally-related land uses and a low density of compatible land uses in the floodway along the Schoharie Creek.
- (c) To recognize this as an area of significant environmental sensitivity that should not be intensely developed.
- (d) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the parcel and community.

W (Waterfront): (1) The intent of the Waterfront Land Use Area is to maintain the natural functioning of the floodway of the Schoharie Creek and maintain a green, largely undeveloped corridor along much of the Village's waterfront, and to provide a consistent level of protection of the visual and environmental resources within this corridor. Further, this land use recognizes that the existing vegetation and future natural vegetation along the Schoharie Creek in this area is effective in creating a natural experience for waterfront land owners, small craft boaters, pedestrians, and other waterfront users. In addition, the Village recognizes that a vegetative buffer reduces the velocity and volume of stormwater runoff entering the Creek, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers used on agricultural fields nearby. Therefore, protection of the Schoharie Creek waterfront is critical to its users as well as its ecology. Specific purposes of this land use area include the following:

- (a) To preserve natural, scenic, and environmental conditions along the Schoharie Creek.
- (b) To preserve open space, woodlands and other green space along the Creek.
- (c) To encourage compatible land uses along the Schoharie Creek.
- (d) To regulate uses and structures along the Schoharie Creek to avoid increased erosion and sedimentation.
- (e) To protect areas of significant environmental sensitivity that should not be intensely developed.
- (f) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the parcel and community.

R (Residential): to allow a mix of moderate to high density residential and compatible home-based businesses and public uses. Additionally, the Village of Schoharie wishes to promote mixed uses of existing structures along Main Street, New York State Route 30.

CBD (Central Business District): to promote commercial development, mixed use buildings where upper floors are available for residential uses, and to maintain the traditional commercial core of the

Village of Schoharie along with its mixed-use character.

C (Commercial): to allow a wide variety of commercial uses in the Village in concentrated nodes.

I (Industrial): to allow areas for light manufacturing and other light industries that are compatible with surrounding neighborhoods.

P (Open Space/Parkland): to promote permanent use of land for open space or park purposes.

PDA (Planned Development): to accommodate such large scale uses as will be of benefit to the community but which could not have been anticipated at the time of the drafting of this law. This land use area is allowed as a floating land use area. A floating land use area is a land use area that is added to the land use law but that “floats” until an application is made to apply the new district to a certain parcel. Upon the approval of the application, the land use map is amended to apply the floating district to that parcel of land.

PDA/SCR – A PDA approved by the Village to promote senior citizen residential uses.

FPD (Flood Protection District): to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas designated by the Federal Emergency Management Agency and through the delineation of flood prone areas in the Flood Insurance Rate Maps. Flood prone areas include mapped floodway and floodzone locations. The FPD boundaries are determined by the Flood Insurance Rate Maps and is a separate district from the Floodway/Agriculture district.

H (Historic Overlay): to encourage, protect and enhance historic structures and areas having important historic character. Additionally, the overlay area goal is to provide for the protection, enhancement, perpetuation and preservation of the historic character within this area. It is a public purpose to ensure that the distinctive historical and architectural character of this land use area shall not be negatively impacted by new uses or development.

MF/MU (Multi-Family and Mixed Use Overlay): to allow for compatible development of multi-family housing such as duplexes, townhouses, apartments, and rooming houses while protecting the residential nature of the district, and to provide for compatible development of combination residential/commercial uses within the same structure for those structures located on Main Street, Route 30 within this overlay.

## 2-4 Official Maps

2-4.1 Official Flood Hazard Map: The location and boundaries of the Flood Protection District established in Section 179-5 are shown on the official Flood Insurance Rate Map printed by the National Flood Insurance Program for Community Panel No. 3610610001C, Revised July 5, 1993 and any subsequent amendments to the map by Federal Emergency Management Agency, which is attached to and made part of this law.

2-4.2 The location and boundaries of the land use areas established in this law are shown on the Official Land Use Map of the Village of Schoharie, which, together with everything shown thereon and all amendments thereto, is hereby adopted by reference and declared to be part of this law.

## 2-5 Interpretation of Land Use Area Boundaries

In general, the land use area boundary lines are intended to follow existing lot lines, street center lines, the center lines of natural watercourses at mean water level, or are intended to be parallel to street center lines at such distances there from as are indicated on the Official Land Use Map or as shall be determined using the scale shown on the Official Land Use Map. The exception is the Flood Protection District, whose boundaries are determined by natural features of water courses and elevation.

## 2-6 Schedule of Land Use Area Regulations

**2-6.1 Allowable Uses:** The Village of Schoharie wishes to allow flexibility of land use if the uses are designed and perform according to requirements set forth in this law. Therefore, many nonresidential uses are allowed, but only upon the granting of a special use permit, and based on a review of a site plan and the application of performance criteria related to scale, impact and design. The Planning Board shall attach conditions to ensure that a proposed use will be compatible with its surroundings and with the goals of the Comprehensive Plan. The Planning Board shall deny any proposed use which it finds will not or cannot be constructed or operated in a manner that satisfies the criteria identified in this law. See Table 2-6.1 and Supplemental Regulations for Allowable Uses.

**2-6.2 Prohibited Uses:** Any use is prohibited if it does not satisfy the performance criteria in this Law. Some commercial uses are prohibited in specific base land use areas. Uses not specifically mentioned in the Use Table are prohibited. The following uses are prohibited in all areas: toxic waste facilities and dumps or landfills for solid waste, municipal or industrial sewage sludge, biosolids, and construction waste and demolition debris. See also Supplemental Regulations for uses that are prohibited in a specific land use area.

**2-6.3 Accessory Uses:** Uses that are incidental or subordinate to principal uses shall be allowed on the same terms as the principal uses, whether or not on the same lot. If separate lots, the two lots must be contiguous. Uses customarily incidental and subordinate to principal uses shown on the above table shall be allowed on the same terms as the principal use.

**2-6.4 Mixed Uses:** As per Table 2-6.1, mixed uses in the Village are allowed in the Multi-Family/Mixed Use overlay area in structures located along Main Street, Route 30, the Commercial Districts, and in PDA's as may be established by the Village Board.

**2-6.5 Change of Use:** A special use permit already issued by the Village of Schoharie Planning Board shall apply to the use for which it has been granted, as well as to any subsequent use of the property which complies with all terms and conditions of the permit regardless of ownership. Any change of use to one that requires site plan or special use approval shall also require site plan review and approval before being undertaken. A change in use requiring additional permits or approvals from the State and that is an unlisted or Type I action under State Environmental Quality Review Act shall also be subject to a new Special use permit or an amendment to the existing Special use permit.

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Table 2-6.1 Permitted, Special use permitted and Prohibited Uses. (In the Table Below, P=Permitted Use, S= Permitted use subject to site plan review and additional performance standards; X= Permitted use subject to Special Use Permit issued by the Planning Board, XS=Both Site Plan and Special Use Permits Required, NN=Use not permitted). Other development standards may apply to those uses that are permitted by right (see Chapters 2 and 3).

Use	Agriculture	Floodway/Agri culture	Waterfront	Residential	Central Business	Commercial	Industrial	Planned Development Area
All forms of agriculture, (except Intensive Agriculture), animal husbandry, horticulture, forestry, necessary farm dwellings and structures and garages and farm retail sales stands.	P	P	P	P	N	N	N	N
Agri-Tourism, Farm Retail Sales	XS	XS	N	N	S	S	N	N
Intensive Agriculture	XS	N	N	N	N	N	N	N
Brewery and Distillery	XS	N	N	N	XS	XS	XS	N
Single Family Dwelling	P	S	N	P	N	N	N	XS
Multi-Family Dwelling	N	N	N	(3)	XS	XS	N	XS
Residences Above or in same building as a Commercial Use (Mixed Use)	N	N	N	(3)	P	P	N	XS
Educational, Charitable, Religious	XS	N	N	XS	XS	XS	XS	
Public Building and Institution	S	S	S	S	S	S	S	S
Hotels, Motels	N	N	N	N	XS	XS	N	
Bed and Breakfast Inns	S	N	N	S	S	XS	N	
Health Care Facility	N	N	N	XS	S	S	N	
Junkyards	N	N	N	N	N	N	XS	
Mining								

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Use	Agriculture	Floodway/Agri culture	Waterfront	Residential	Central Business	Commercial	Industrial	Planned Development Area
	N	N	N	N	N	N	XS	
Mobile Home Community	N	N	N	N	N	N	N	N
Home-based Business, Major (See Section 3-3)	XS	XS	XS	XS	X	X	N	
Home-based Business, Minor (See Section 3-3)	P	P	P	P	P	P	N	
Retail and Service Business	N	N	N	N	P	S	N	
Antique Sales	N	N	N	XS	P	S	P	
Wholesale Businesses	N	N	N	N	P	S	XS	
Gasoline Stations and Automobile Service Shops	N	N	N	N	XS	XS	XS	
Office	(4)	(4)	(4)	N	P	S	S	(4)
Restaurant	N	N	N	N	P	S	XS	
Nursing Home	N	N	N	(3)	N	XS	N	
Recreational Businesses	XS	XS	XS	N	S	S	N	
Adult Entertainment Business	N	N	N	N	N	N	XS	N
Commuter Parking Lots	N	N	N	N	XS	XS	XS	
Cemeteries	P	N	N	P	N	N	N	
Light Industry	N	N	N	N	XS	XS	XS	
Distribution Center	N	N	N	N	XS	XS	XS	

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Use	Agriculture	Floodway/Agri culture	Waterfront	Residential	Central Business	Commercial	Industrial	Planned Development Area
Boat Launch, Ramp, Tie-Up, Dock for non-motorized boat	XS	XS	XS	N	N	N	N	
Transient Commercial Recreational Open Space Use	XS	XS	XS	N	N	N	N	
Transient Campground and Recreational Vehicle Campground	XS	XS	XS	N	N	N	N	
Public Open space and parks and pedestrian trails	P	P	P	P	P	P	P	P
Emergency Service Facility (Added LL #2 of 2012)	XS	XS	N	XS	N	XS	XS	XS
Digital Display Signs	N	XS	N	N	XS	XS	XS	XS
Portable Outdoor Storage Units	P	P	N	P	N	P	P	P
Outside Wood Furnace	XS	XS	N	XS	N	N	N	N
Solar Facility, Utility Scale	XS	XS	X	X	X	X	XS	N
Solar Facility, Private Use	P	P	N	P	S	S	S	S

(1) Multi-family residences are allowed only in the Multi-Family Overlay District

(2) Any lawful use approved by the Village Board of Trustees

(3) Allowed in only the Multi-family/Mixed Use Overlay Area in structures located on Main Street, Route 30 with a special use permit and site plan review by the Planning Board.

(4) Offices allowed in these land use areas only as part of a use otherwise permitted in that district and with a special use permit and site plan review by the Planning Board.

**2-6.6 Principal buildings per lot:** There shall be only one principal building and principal use per lot unless part of an approved PDA, a multi-family development in the MF/MU overlay district, or a commercial development where permitted.

## 2-7 General Regulations and Standards

**2-7.1 Density of Use:** Development within the Village of Schoharie shall conform with the following area, intensity and dimensional requirements as outlined in Table 2-7.1 and 2-7.2, below. DU is defined as the number of dwelling units per acre allowed.

**2-7.2 Minor Area Variances:** The Zoning Board of Appeals is authorized to grant minor area variances up to no more than 10% of minimum dimensional requirements. When the Zoning Board of Appeals determines that a minor area variance is appropriate, the area variance test must be applied.

**2-7.3 Calculating Density.** Density is calculated based upon the acreage of the property. To determine density (residential units or principal buildings allowed on the site), divide the full acreage of the parcel by the maximum residential density figure from Dimensional Table below. For parcels that are located within more than one district, calculations shall be made separately for the portion of the parcel in each district using the density for that district as per Table 2-7.1. This density may be combined and distributed anywhere within the parcel.

### 2-7.4 Residential Density and Dimensional Requirements

A. Individual Lot Densities, Lot Dimension and Setback Requirements. The Village encourages development that is compatible with the existing character and environment. Dimensional and setback requirements contained in this law shall be applied according to siting guidelines as described in Appendix A of the Comprehensive Plan and the Density and Dimension Tables of this local law.

B. Eligibility for Density Bonuses. To encourage preservation of open space, efficient use of lands, senior and higher density housing, construction of energy efficient structures, and minimal environmental impacts of development, the following residential density bonuses may be granted as positive incentives for desired features as follows below. Any density bonus must follow all procedures pursuant to New York State Village Law 7-703 (Incentives).

(1) To encourage Preservation of open space: The Planning Board may grant a density bonus of 1 dwelling unit per 2 acres of land preserved permanently as open space.

(2) To encourage public access and recreational uses: The Planning Board may issue a maximum density bonus of 1 dwelling unit for every 2 acres of land dedicated for public use, including trails, active recreation, access to streams, or other similar uses. The decision whether to accept an applicant's offer to dedicate open space for public access shall be at the discretion of the Village Board. In its decision, the Planning and Village Boards shall be guided by the open space and public access recommendations contained in the Comprehensive Plan.

(3) To encourage affordable and senior housing: Density bonuses may be offered to encourage the provision of new homes priced at affordable levels or dedicated for senior citizens. A density bonus of 1 additional lot or dwelling unit for each affordable or senior housing unit, up to a maximum 25% increase in dwelling units may be issued.

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(4) To encourage energy efficiency building design and construction: Density bonuses may be offered to encourage the construction of LEED Certified Buildings. A density bonus of 15% additional lots or dwelling units may be approved for construction using LEED Certified building construction.

### C. Criteria and procedure for approval of Density Bonuses.

(1) Procedures. Any density bonus must follow all procedures pursuant to New York State Village Law 7-703 (Incentives). In addition, the applicant shall apply to the Planning Board to receive a density bonus as allowed above with the application for a special use permit, site plan review, or subdivision approval. The Planning Board shall consider this application simultaneously with any other review required and shall follow established time frames and procedures for those reviews. The Planning Board shall hold a public hearing prior to awarding any incentives. The Planning Board shall review the density bonus application and approve, disapprove, or approve with conditions.

(2) Assessment of Benefits. To ensure that the benefits of receiving a density bonus are linked to the community's needs, the Planning Board must examine whether there are any negative impacts on the surrounding neighborhood by the proposed project. The Planning Board's review shall include, but is not limited to ensuring that adequate resources exist; that environmental quality will not be negatively impacted; that public facilities such as, water supply, waste disposal, emergency services and fire protection are adequate; and that the proposed project is compatible with surrounding neighborhoods. The Planning Board may impose such conditions as needed to ensure that the project is compatible.

Village Law § 7-703 (3) (d) also requires that a generic environmental impact statement be prepared and the applicant must pay a proportionate share of the cost of preparing the environmental impact statement.

D. Flexible Conservation Subdivisions. Conservation subdivisions enable and encourage flexibility and diversity of design and development of land. They promote the most appropriate use of land, facilitate the most efficient use of streets and utilities, preserve agricultural lands, allow for the set aside of open space, and facilitate patterns of development that are consistent with Village styles and character. Conservation subdivisions allow flexibility in lot sizes, arrangement, setbacks, and road frontages with the goal of preserving 50% or more of the land as open space.

Flexible conservation subdivisions may be required by the Planning Board for any minor or major subdivisions, and are required for all major subdivisions in the Ag or F/A land use areas in the Village. Further, the Planning Board may require a conservation subdivision for a minor subdivisions if any combination of the following criteria are met: the parcel is within 500 feet of a state or county highway, or the parcel contains environmental constraints such as steep slopes, wetlands or flood plains. Flexible conservation subdivisions are encouraged in all other zones that permit residential development in the Village.

(1) General Rules: Except as specified in this section, all development standards and controls of this Land Use Law which are otherwise applicable in the district in which the property is located shall also be applicable within any conservation development. Except as otherwise provided in this section regarding the type of residential dwelling units permitted, the permitted principal and accessory uses within a conservation subdivision shall be the same as those otherwise



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permitted in the zoning district in which the property is located. The number of dwelling units permitted within a conservation subdivision shall in no case exceed the density in the district in which the property is located unless the Planning Board has issued a density bonus for such project.

(2) Flexible Conservation Subdivision Standards. See Chapter 6, Subdivision Regulations, Section 6-9.

**Table 2-7.1 Density Requirements for All Land Use Areas within the Village of Schoharie**

	<b>Agriculture</b>	<b>Floodway Agricultural</b>	<b>Waterfront</b>	<b>Residential(1)</b>	<b>Central Business District</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Planned Development Area</b>
Density	1 dwelling unit per 20,000 square feet	1 dwelling unit per 5 acres	Not Permitted	1 dwelling unit per 10,000 square feet	Unlimited	1 principal building per 10,000 square feet	1 principal building per 30,000 square feet	1 principal building per 20,000 square feet
Density Bonus Offered	Yes	No	No	Yes	No	No	No	Yes

**Table 2-7.2 Area and Dimensional Requirements for All Land Use Areas within the Village of Schoharie**

	<b>Agriculture (1) (2)</b>	<b>Floodway/ Agriculture</b>	<b>Waterfront</b>	<b>Residential (1) (3)</b>	<b>Central Business District</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Planned Development Area</b>
Minimum Lot Width	50 feet	50 feet	(6)	Min. 30 feet	25 feet	50 feet	100 feet	(4)
Min/Max Front Yard	20/30 feet	20/30 feet	No Building Allowed	10/25 feet	--	10/25 feet	20/30 feet	20/30 feet
Side Yard	15 feet minimum	15 feet minimum	No Building Allowed	10 feet minimum	0 feet	--	25 feet	25 feet

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	<b>Agriculture (1) (2)</b>	<b>Floodway/ Agriculture</b>	<b>Waterfront</b>	<b>Residential (1) (3)</b>	<b>Central Business District</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Planned Development Area</b>
Rear Yard	25 feet minimum	25 feet minimum	No Building Allowed	15 feet minimum	NA	55 feet minimum (one row of parking)	75 feet minimum	50 feet
Building Height	Maximum 2 ½ stories or 40 feet	Maximum 2 ½ stories or 40 feet	No Building Allowed	Maximum 2 ½ stories or 40 feet	Min 2 stories, Max 3 stories	Maximum 2 ½ stories or 40 feet	Max 2 ½ stories or 40 feet	<i>Maximum of 45' subject to approval of the Planning Board and the Village Board upon review of each specific PDA at the time of application</i>
Maximum Building Coverage of Lot	20%	15%	No Building Allowed	40%	100%	60%	60%	(4)
Minimum Floor Area	600 square feet	600 Square Feet	No Building Allowed	600 square feet	--	--	--	(4)

- (1) Bulk standards for accessory buildings: an accessory building located on the same lot as a single family dwelling, whether attached or detached to same, shall also comply with the bulk standards as specified above.
- (2) Rear or side yard garage requirements. If access to a garage is provided from a street, the front entrance of such garage shall be setback fifteen feet further than from the front wall of the dwelling unit. The location of a garage shall be setback a minimum of five feet from side or rear property line.
- (3) Build to line in the Central Business District shall be equal to the existing front yard setback of immediately adjacent properties.
- (4) A minimum of three acres is required for any Planned Development Area. Other dimensions to be determined by the Village Board at time of approval of the PDA pursuant to 2-8.6.
- (5) The Planning Board may alter front, side and rear setbacks to optimally place the building envelope so that buildings are set back consistent with adjacent buildings.
- (6) Lots may be created, but no structures can be built in this area.

## **2-7.8 Other General Standards**

A. Public Garages. No public garage shall have an opening in the roof, side or rear walls less than 15 feet from any lot line. All repair work requiring more than 12 hours elapsed time shall be done within a completely enclosed building whenever possible. If the vehicle is too large to permit this, then the vehicle may be repaired outside, if the vehicle and disassembled parts are not in the way of automotive or pedestrian traffic.

B. Excavations and soil mining. All proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited. Excavations shall not create objectionable dust or noise, contribute to soil erosion or create any kind of noxious or injurious substance or condition nor cause public hazard. No topsoil may be stripped, excavated or removed, for sale or for any use, other than in connection with excavation and grading incidental to construction on the premises from which it is removed unless a layer of not less than six inches of topsoil is left on the premises and this remaining layer is seeded to prevent erosion.

C. Mobile homes. All new single or double wide mobile homes are prohibited from all land use areas within the Village of Schoharie. Replacement of either existing single-wide or existing double-wide mobile homes is permitted if the replacement was manufactured no more than five years prior to time of replacement. Construction trailers may be placed temporarily on construction sites for a period not to exceed the active construction period. Permits are to be renewable annually. Such trailers may be used for storage or workshop space, and shall not be used for residential purposes. Construction trailers shall require a permit from the Code Enforcement Officer prior to placement.

D. Activity standards for noisome and injurious substances, conditions and operations. The activity standards of this section shall apply in all land use areas except for normal farm uses in agriculture land use areas such as forestry use tools, crop harvesting, and feedlot operations.

E. Damaged Buildings. Any building which is damaged by fire or other accidental cause or by flood, wind, lightning, or other natural cause to the extent that it is no longer used for its regular or former purpose shall be repaired, rebuilt or razed within one hundred twenty days after the damage is sustained. The Planning Board may grant a Special Use Permit for a period not to exceed one year after the expiration of the 120-day period to permit repair, razing, or rebuilding.

(1) If an applicant is proposing a new use that requires demolition of an existing building, then demolition of that building shall be reviewed as part of a complete application for site plan review. There shall be coordinated and concurrent review of this action with demolition and re-building.

(2) When demolition is proposed without a proposal for redevelopment, the Planning Board shall conduct a demolition review of the demolition and landscape plans. The parcel shall be seeded with grass and landscaped with trees. Deciduous trees are preferred and shall have at least a 2-inch caliper at the time of planting. Trees shall be provided within the lot at a minimum density of one (1) tree per 1000 square feet of lot, and along the side of the street with a maximum spacing of 30 feet on center. If a sidewalk is present prior to demolition, such sidewalk shall be maintained or restored after demolition so that the sidewalk is safe for pedestrians and free of rubble and cracks. The Planning Board may require additional landscaping to maintain a pedestrian atmosphere at the site.

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(3) When demolition occurs, water, sewer and all other utility lines shall be located, marked, capped and inspected and approved by the appropriate department prior to final site treatment.

(4) If a building permit is for or includes demolition of an existing structure, demolition, including site restoration, shall be completed within ninety (90) days. If demolition occurs during the months of November through March, seeding and landscaping shall take place by May 31.

F. Existing undersized lots. Any lot held in single and separate ownership prior to the adoption of this law whose area or width or depth, or a combination of area, width or depth are less than the specified minimum lot requirements of this law for that land use area may be considered as complying with such minimum lot requirements, and no variance shall be required, if:

(1) Such lot does not adjoin other undersized lot or lots held by the same owner, the aggregate area of which is equal to or greater than the minimum lot area required for that land use area.

(2) Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line except in the Central Business District.

(3) The following minimum yard dimensions are maintained: each side yard, eight feet; front yards, twenty feet; and rear yards, fifteen feet.

(4) All other requirements for that land use area are complied with.

G. Height Exceptions. The height limitations of this law, as shown on the Use Schedule, shall not apply to the following structures: Farm buildings and structures, church spires, cupolas, chimneys, ventilators, skylights, water tanks and other necessary mechanical appurtenances usually carried above the roof level.

H. Transition requirements for land use area boundaries. Where a lot in a business land use area abuts a lot in a residential district, there shall be provided along such abutting side on said business district lot a yard at least equal in width to that required in the abutting residential land use area. In said yard, a strip 12 feet wide immediately adjacent to said residential lot shall not be used for storage of any materials or goods, parking or roadway and shall be provided with a solid wall, fence or hedge at least six feet but no more than eight feet in height. Such wall, fence or hedge shall begin at a point no more than five feet from the front or side property line and shall extend along the full dimension of the abutting lots and shall be properly maintained. Where the property on one side of a street is land used partly for residential use and partly for business or industrial use, the front yard depth along such street shall be at least equal to the required front yard depth of the residential land use area.

I. Yards.

(1) Corner lots. On a corner lot, each side that abuts a street shall be deemed a front lot line, and the required yard along each such lot line shall be a required front yard. The owner shall decide which of the remaining yards shall be the required side yard and the required rear yard.

(2) Side yards for row houses. Side yards for row houses shall be required at the ends of the total structure.

(3) Double frontage. For any through lot fronting on two different streets, both frontages shall comply with the front yard requirements of the land use area in which it is located.

(4) Distance between principal buildings. If two or more principal residential buildings are located on the same lot, one building's exterior walls containing windows shall be separated from the nearest point on any adjacent building by a horizontal distance, perpendicular to the wall with windows, equal to at least the width of the required side yard for the land use area in which the buildings are located.

(5) Obstructions at street intersections. On a corner lot in any land use area, no fence, wall, hedge or structure shall be located to limit visibility at a street intersection. In general, no such item with a height of over two and one-half feet and a width or length of over three feet shall be allowed within the triangular area formed by the intersecting street lines for thirty feet from the intersection. Lot grading and landscaping shall not impede visibility and line of sight for 30 feet.

(6) Improper use of yards. In no event, shall any part of a lawn, driveway, parking area or other open space be used for the storage or abandonment of any articles or goods or the storage of trucks or trailers. Presence of such goods or articles or trucks or trailers on a lawn, driveway, parking area or open space for more than 60 days shall be considered as storage or abandonment. This section is not intended to prohibit parking of recreational vehicles, motor homes or pickup trucks on an owner's property during periods when such vehicles are not in use.

J. Mixed Uses. Mixed uses are allowed in the multi-family/mixed use (MF/MU) overlay in structures located on Main Street Route 30, in commercial land use areas (C, CBD) for new buildings or for conversion of existing buildings for a mix of office/service/retail and residential uses. The residential component within the building must be maintained. Mixed uses will be allowed if impacts to surrounding residences and the residential neighborhood is minimal.

K. Street Trees. Street trees are required for all new development and changes of uses within the Village. Stately shade trees of at least 3-inch caliper shall be planted in the "parkway" between the road and sidewalk every 20 to 30 feet, depending on the species of tree. Landscaping plans, including street tree planting shall be reviewed during site plan review.

L. Annexation. Any land annexed or desired to be annexed to the Village of Schoharie, when developed, must be developed according to all Village of Schoharie standards and requirements set forth in this law.

M. No person shall construct any new building or structure without first meeting the applicable requirements for sewage disposal and water supply. No building permit shall be issued until on-site sewage disposal and water supply plans are approved by the appropriate agency.

## 2-8 Supplemental Regulations Specific to Land Use Areas in the Village of Schoharie

### 2-8.1 Agriculture (A) Land Use Area

A. Building standards and lot layout shall follow guidelines from the Hamlet Siting Guidelines,

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published by the NY Planning Federation. This includes guidelines for streets and sidewalks. Additionally, the Planning Board shall follow existing design criteria outlined in Appendix A of the Comprehensive Plan.

B. All major subdivisions shall be developed according to Flexible Conservation Subdivision standards and are mandatory in this land use area. See Chapter 6-9.

C. For minor subdivisions and new buildings on individual lots, building envelopes shall be used to ensure that placement of buildings results in setbacks and yards that carries on and maintains existing character, setbacks and yards of the adjacent residential streets or that preserves the most amount of open space on the parcel. Building envelopes shall also be designed to place buildings and disturbed areas out of flood prone areas to the maximum extent practicable.

D. Permitted uses; prohibited uses.

(1) Table 2-6.1 details all permitted uses for this land use area.

(2) Pursuant to 2-6.2, uses that are not mentioned in the Use table are prohibited. For clarity, the following uses, however, are specifically prohibited within the A Land Use Area:

- a. Junkyards and solid waste disposal or processing facilities.
- b. Mineral extraction or surface mining.
- c. Freight or truck terminals.
- d. Bulk fuel storage.
- e. Bulk industrial chemical storage or processing.
- f. Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.
- g. No potentially polluting material, including but not limited to commercial yard waste, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.

E. A Land Use Area Development Regulations.

(1) All requirements of Local Law #1 of 2004 (Flood Damage Prevention) shall be met for all activities.

(2) Protection of water quality.

- a. There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within the A Land use area unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
- b. Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual.

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- c. Agricultural activities.
    1. Activities related to crops including, but not limited to plowing, planting, fertilizing, spraying, and harvesting shall not require any permit or Planning Board review.
    2. All non-crop, ag-related uses as allowed in the Use Table (2-6.1) shall require site plan and special use permit approval by the Planning Board.
- (3) Density of Development. There shall be a minimum lot size of ½ acre for each lot created in the A Land use area. The maximum building coverage of buildings on the total parcel shall be 20%. The minimum lot size for any agriculturally-related business shall be 5 acres. All major subdivisions proposed in the A land use area shall be developed according to the Flexible Conservation Subdivision standards of Chapter 6-2.3 (D) with homes developed using Village-style setbacks, yards, build-to lines, and other dimensions pursuant to Table 2-7.2 of this local law. All other dimensions of 2-7.1 and 6-2.3 (D) shall be met. All other requirements pursuant to 2-8.1 shall be met. A density bonus pursuant to 2-7.4 may be applied for developments that provide for public access to the Schoharie Creek.
- (4) As part of any site plan and special use permit review process, the Planning Board shall consider all requirements pursuant to Chapter 5 (Site Plan Review) and Chapter 4 (Special Use Permits and the following:
- a. The adequacy of stormwater and drainage facilities.
  - b. The adequacy of water supply and sewage disposal facilities.
  - c. Protection of visual quality and character of the neighborhood.
  - d. Protection of adjacent or neighboring properties against noise, glare, unsightliness, smoke and exhaust, or other objectionable features.
  - e. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - f. Special attention to the adequacy of structures, roadways and landscaping in relation to susceptibility to ponding, flooding and/or erosion.
  - g. Maximum avoidance of the destruction, damage or detrimental modification of or interference with natural, scenic, topographic or physical features of the site.
  - h. The extent to which structure height and dimensions are compatible with the site and the adjacent sites, and do not detract from the natural visual quality of the local area or region.

### **2-8.2 Residential (R) Land Use Area**

- A. The Planning Board shall follow existing design criteria outlined in Appendix A of the Comprehensive Plan.
- B. Signs in residential districts. Permitted signs in any residential land use area or in connection with any residential building in any other district shall not exceed nine square feet in area. No more than one such sign shall be permitted. Flashing lights, internally lighted signs, signs employing mercury vapor, low pressure and high pressure sodium and metal halide lighting, plastic panel rear-lighted signs, signs on roofs, dormers or balconies, and billboards are not permitted. The signboard shall not be illuminated after 10:00 P.M.



### **2-8.3 Central Business District (CBD) Land Use Area**

A. No off-street parking is required.

B. Sidewalks are required for all new buildings, changes of uses, and for infill development. A change of use in an existing building that currently has no sidewalk shall require placement of sidewalk as part of an approved project.

C. Signs in the Central Business District. All requirements of Chapter 3-2.2G and Table 1 shall be met, except where noted below.

(1) Businesses located in corner buildings are permitted one sign for each street frontage.

(2) Businesses with services entrances may identify these with one sign not exceeding two square feet.

(3) No exterior sign shall be illuminated beyond two hours after the close of business and in no event between the hours of twelve o'clock midnight and 6:00 a.m. unless the premises on which it is located is open for business.

(4) The sign shall be constructed of any durable material and shall be architecturally compatible with the style, composition, materials, colors and details of the building.

(5) Temporary promotional or special sales signs when placed in conjunction with a commercial establishment in this land use area are exempt from sign regulations. Temporary signs advertising a business opening or change in ownership shall not exceed an area of 16 square feet. All temporary signs shall be permitted for a period not to exceed 30 days without a permit. Temporary promotional signs are permitted on ground floor windows only.

(6) Wall-mounted signs are to be affixed to the front facade of the building and shall not project outward more than six inches. The sign shall not extend above the parapet, eave, or building facade.

(7) In addition to other signage, restaurants and cafes shall be permitted a sandwich board sign, whose area, single-sided shall not exceed five square feet, shall be made of wood, located within four feet of the main entrance to the business and in a location that will not interfere with pedestrian or vehicular circulation. The sign shall be removed at the end of the business day.

D. Infill buildings shall be two to three stories. One story buildings are prohibited.

E. Building design shall be similar in design to that of other neighboring buildings. In-fill buildings shall have facades that are compatible with and are to replicate the traditional architectural style of surrounding facades.

### **2-8.4 Commercial (C) Land Use Area**

A. All new buildings and change of uses must conform to the building design standards, parking, landscaping and lighting as contained in this Land Use Law (Chapter 3) and Appendix A of the Comprehensive Plan.

B. Sidewalks are required.

### **2-8.5 Industrial (I) Land Use Area**

A. Screening and lighting requirements (Chapter 3-2.2A, B and C) shall apply to all new industrial buildings. Screening shall be proportionate in scale to the size of the building. Design of building shall emphasize screening and architecture that allows the building to fit into the environment through exterior designs and colors in earth tones.

### **2-8.6 Planned Development Area (PDA) Land Use Area**

A. Applicability and Purposes

(1) A planned development area is the development of a tract of land as a single entity for mixed uses not otherwise allowed by the regulations governing the existing land use area. Thus, the purpose of a Planned Development Area is to zone an area for a variety of uses. The Village of Schoharie Land Use Law provides for planned development areas only in the Village of Schoharie. This is because the purpose of Planned Development Areas is to allow various types of uses to occur on one tract of land. The ability to allow a variety of uses to exist together is implicit in the regulations governing most of the Village with the forewarning that most nonresidential uses are subject to site plan review and Special Use Permit review to ensure that they are compatible with the community. Therefore, Planned Development Areas have been made applicable only in the Village where there are more restrictions as to which uses may occur together.

Specific Purposes of Planned Development Areas. The purpose of a Planned Development Area is to allow variations or waivers to the fixed requirements of the existing land use areas otherwise imposed on development and to allow such development to occur as a Planned Development Area. Additionally, the Planned Development Area concept fulfills the goals of the Comprehensive Plan of the Village of Schoharie by allowing for:

- A more desirable living and working environment than may be possible through the strict application of land use regulations;
- Developers to use more creative approaches in their development of land;
- A more efficient and desirable use of open land; and
- Mixed land uses in the development of the Village.

B. Minimum Requirements for Establishment of a Planned Development Area. The minimum requirements for establishment of a Planned Development Area shall be as follows: The area proposed for the Planned Development Area shall be under single ownership both at the time of the application for the Planned Development Area and when the Planned Development Area is adopted. The area constituting the Planned Development Area shall be three or more acres in size.

C. Summary of Process to Establish Planned Development Areas

(1) Village Board Approval: The establishment of a Planned Development Area in the Village of Schoharie is a legislative act. It is akin to a rezoning. When enacted, a Planned Development Area constitutes an amendment to the Land Use Law of the Village of Schoharie and the accompanying land use map. Consequently, the establishment of a Planned Development Area

requires the approval of the Board of Trustees of the Village of Schoharie. Because the establishment of a Planned Development Area is a legislative act, the Board of Trustees of the Village of Schoharie has the same amount of discretion in deciding whether to adopt a Planned Development Area proposal as it does for any other legislative act. This means that the Board of Trustees of the Village may deny Planned Development Area approval for any constitutional reason. On the other hand, the Village Board of Trustees may adopt a Planned Development Area only if it complies with the standards set forth below and is in accordance with the letter and spirit of the Comprehensive Plan of the Village of Schoharie.

(2) Planning Board Approval: The Village Board of Trustees adoption of a Planned Development Area does not constitute site plan approval only approval for the types of uses proposed to be placed in the Planned Development Area. As described below, the Village Board of Trustees approves the general outlines of the plan. This means that the Board of Trustees establishes the uses that are allowable in the Planned Development Area as well as whether they are permitted uses or uses subject to Special Use Permits and site plan approval. Once the plan is approved, it is the responsibility of the Planning Board to approve site plans and special use permits (if applicable) for the approved uses. The Planning Board shall, however, serve in an advisory role to the Village Board of Trustees during the consideration of a Planned Development Area proposal.

D. Standards for Adoption of a Planned Development Area: The Village Board shall consider and make findings regarding each of the following factors in legislating any Planned Development Area:

- Compatibility with the surrounding area;
- Harmony with the character of the neighborhood;
- Need for the proposed development;
- The effect of the proposed Planned Development Area upon the immediate area;
- The effect of the proposed Planned Development Area on the future development of the area;
- Whether the Planned Development Area is warranted by virtue of the design and amenities incorporated into a proposed development plan;
- Whether the land surrounding the Planned Development Area can be planned in coordination with the Planned Development Area;
- Whether the proposed Planned Development Area is in conformance with the Comprehensive Plan;
- That the existing and proposed streets are adequate to carry anticipated traffic in and around the proposed district;
- That the existing and proposed utility services are adequate for the proposed development; and
- That the Planned Development Area makes it possible for the creation of a creative, innovative, and efficient use of the property than would occur over the existing land use regulations.

The Village Board of Trustees must also find that the property proposed for a Planned Development Area is seven acres or more in size and that the land is under single ownership. Additionally, creation of a Planned Development Area is subject to the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law). Approval of a Planned Development Area does not constitute site plan review or Special Use Permit approval, which are obtained from the Planning Board for specific uses authorized in the Planned Development Area.

E. Detailed Procedures for Adoption of a Planned Development Area

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(1) Application Requirements: The application for a Planned Development Area and six copies shall be submitted to the Village Clerk at least twenty business days before the next meeting of the Village Board of Trustees. The application shall consist of the following:

- The standard form application obtainable from the office of the Village Clerk;
- The required application fee, which shall be reviewed annually by resolution of the Village Board of Trustees;
- A draft supplemental environmental impact statement (supplementing the environmental impact statement for the Village of Schoharie Land Use Law);
- A sketch map (drawn to scale) showing the entire parcel of land proposed for the Planned Development Area, the location of proposed uses and major buildings, the proposed development density, proposed uses and housing types (if applicable), lay-out of roads, location of all entrances to the Planned Development Area parcel of land, and all proposed open spaces;
- A perspective drawing or computer simulation showing the development from State, County, Village roads (to simulate the look of the development to pedestrians and motorists from State, County, Village roads); and
- If not incorporated into the draft supplemental environmental impact statement, a narrative describing the design and architectural policies for the Planned Development Area, the developers proposed treatment of environmentally sensitive lands (if any), and a time frame for phased development (if applicable).

(2) Application Procedures: The Village Board of Trustees shall determine whether the application is complete at its first meeting following timely submission of an application for a Planned Development Area. If the Village Board of Trustees determines that the application is not complete, the Board shall so notify the applicant with a statement as to why the application is incomplete. If the application is determined to be complete, the Board shall send a copy of the complete application to the Planning Board for its advisory opinion. The Village Board of Trustees shall not act on any application for a Planned Development Area until it has received the Planning Board's recommendations on the application.

(3) Review of Application: The Village Board of Trustees may engage experts, including but not limited to professional planners, architects and engineers in reviewing the Planned Development Area proposal. The reasonable expense of engaging such experts shall be charged to the applicant.

(4) Public Hearing: The Village Board of Trustees shall not vote to approve a Planned Development Area until it has held at least one public hearing on the application following the submission of a complete application and receipt of the Planning Board's recommendations on the application. The applicant shall notify all landowners within 500' of a project about the hearing directly through a mailed notice. All costs of such notification shall be borne by the applicant.

(5) Adoption of Planned Development Area: The Village Board of Trustees shall act on an application to establish a Planned Development Area within ninety days following receipt of the Planning Board's recommendations. The date of receipt of the Planning Board's recommendations shall be deemed to be the first regular meeting of the Village Board of Trustees following the Village Clerk's receipt of the Planning Board's recommendations. The Village Board of Trustees' failure to act on a Planned Development Area application within this period shall not be deemed to constitute a default approval of the application. The Village

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Board of Trustees may adopt a Planned Development Area only after following the procedures described above and making written findings regarding each of the standards set forth above for adoption of a Planned Development Area. The Village Board of Trustees shall cause the official land use map for the Village of Schoharie to be amended to show the Planned Development Area. The amendment shall also include a list of permitted, Special Use Permitted uses and uses requiring site plan review and any other minimum land use standards that the Village Board of Trustees deems appropriate. The allowable density in a Planned Development Area shall not be higher than the allowable density in the existing land use area. The minimum standards for all other aspects of the Planned Development Area shall be those applicable to the existing land use area unless otherwise prescribed by the Village Board of Trustees.

F. Planning Board Procedures: The Planning Board shall provide to the Village Board of Trustees an advisory opinion on the proposed Planned Development Area after receiving a complete application for a Planned Development Area and before the next meeting of the Village Board of Trustees following the Planning Board's receipt of the Planned Development Area application. Alternatively, the Planning Board may request additional information reasonably related to the Planned Development Area application. If the Planning Board requests additional information, the Board's time to render an advisory opinion is extended to the next meeting of the Village Board of Trustees following receipt of such additional information. The time of receipt of such information shall be deemed to be the date of the regular meeting following submission of the information to the Clerk of the Planning Board.

G. Role of the Planning Board after Adoption of a Planned Development Area: The Planning Board's role after adoption of a Planned Development Area is to review site plans and Special Use Permits for uses in the Planned Development Area pursuant to the Planning Board's site plan approval powers, Special Use Permit authority and the State Environmental Quality Review Act. The provisions of this section are intended to supersede State law.

H. Additional Standards for Planned Development Area:

(1) Building footprints in no case shall cover more than thirty percent of the total area of development.

(2) Planned Development Area developments shall be protected by such reasonable and appropriate safety measures, devices, screening or yards to avoid or minimize any adverse effects on the development itself or in the surrounding area.

(3) Yard requirements for buildings may be modified except along the boundaries of the development area.

(4) All planned development area proposals shall be consistent with the need to minimize flood damage, all public utilities and facilities, such as sewer, gas, electrical and water systems, are located, and constructed to eliminate or minimize flood damage, and adequate drainage shall be provided to reduce exposure to flood hazards.

(5) All utilities must be buried underground in Planned Development Area areas.

### **2-8.7 Floodway/Agriculture Land Use Area**

#### **A. Permitted uses; prohibited uses.**

(1) Table 2-6.1 details all permitted uses for this land use area.

(2) Pursuant to 2-6.2, uses that are not mentioned in the Use table are prohibited. For clarity, the following uses (but not limited to), however, are specifically prohibited within the F/A Land use area:

- a. Junkyards and solid waste disposal or processing facilities.
- b. Mineral extraction or surface mining.
- c. Freight or truck terminals.
- d. Bulk fuel storage.
- e. Bulk industrial chemical storage or processing.
- f. Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.
- g. No potentially polluting material, including but not limited to commercial yard waste, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.

#### **B. F/A Development regulations.**

(1) All requirements of Local Law #1 of 2004 (Flood Damage Prevention) shall be met for all activities.

(2) Protection of water quality.

- a. There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within the F/A Land use area unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
- b. Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual.

(3) Agricultural activities.

- a. Activities related to crops including, but not limited to plowing, planting, fertilizing, spraying, and harvesting shall not require any permit or Planning Board review.
- b. All non-crop, ag-related uses as allowed in the Use Table (2-6.1) shall require site plan and special use permit approval by the Planning Board.

(4) Density of Development. The minimum lot size for any residential development shall be five acres. The maximum building coverage, including all buildings and impervious surfaces on the

total parcel shall be 15%. All residential development proposed in the F/A shall require site plan approval by the Planning Board. The minimum lot size for any agriculturally-related business shall be 5 acres. All major subdivisions proposed in the F/A land use area shall be developed according to the Flexible Conservation Subdivision standards of Chapter 6-2.3 (D) of this local law. For large lots having land in both the F/A and A land use areas, the building envelopes shall be placed to the maximum extent outside the floodway area. Where residential construction is allowed in the F/A, the freeboard requirement shall be higher than the NYS minimum of 2 feet. All other dimensions of 2-7.1 and 6-2.3 (D) shall be met. A density bonus pursuant to 2-7.4 may be applied for developments that provide for public access to the Schoharie Creek.

(5) As part of any site plan and special use permit review process, the Planning Board shall consider all requirements pursuant to Chapter 5 (Site Plan Review) and Chapter 4 (Special Use Permits and the following:

- a. The adequacy of stormwater and drainage facilities.
- b. The adequacy of water supply and sewage disposal facilities.
- c. The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- d. Protection of scenic views and visual quality and character.
- e. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- f. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- g. Special attention to the adequacy of structures, roadways and landscaping in relation to susceptibility to ponding, flooding and/or erosion.
- h. Maximum avoidance of the destruction, damage or detrimental modification of or interference with natural, scenic, topographic or physical features of the site.
- i. The extent to which structure height and dimensions are compatible with the site and the adjacent sites, and do not detract from the natural visual quality of the local area or region.

(6) There shall be no commercial advertising signs in the F/A district. Pedestrian signs, wayfinding signs and directional markers are acceptable off-premise signs in this district.

### **2.8-8 Waterfront Land Use Area**

A. Permitted uses; prohibited uses.

(1) Table 2-6.1 details all permitted uses for this land use area.

(2) Pursuant to 2-6.2, uses that are not mentioned in the Use table are prohibited. For clarity, the following uses, however, are specifically prohibited within the W Land use area:

- a. Junkyards and solid waste disposal or processing facilities.
- b. Mineral extraction or surface mining.
- c. Freight or truck terminals.
- d. Bulk fuel storage.
- e. Bulk industrial chemical storage or processing.
- f. Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to

- property if an accident occurs.
  - g. No potentially polluting material, including but not limited to commercial yard waste, leaves, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation buffer. The vegetation buffer shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.
  - h. Floatable buildings (not including docks).
- B. Waterfront Development regulations.
- (1) Riparian area vegetated buffer. Where currently existing as of the date of adoption of this local law, riparian areas shall be maintained with a natural vegetation strip on each parcel or lot within the WF. Removal of vegetation in the W shall require a special permit in accordance with the following requirements:
    - a. No clear-cutting shall be allowed.
    - b. The vegetation strip may be selectively thinned but no more than 35% of the number of trees six inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period.
    - c. Existing soil and organic matter shall not be altered or disturbed within the W Land Use Area except in connection with an activity otherwise permitted.
    - d. No structures shall be permitted within the vegetation strip, with the exception of boat ramps, trails and walkways, or elevated walkways which provide reasonable access to the water. Park-related furnishings (benches, picnic tables, pavilions, refuse containers, trails, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the Creek. Appurtenant parking areas should be made of pervious material and/or to the extent possible, placed outside of the W land use area.
    - e. A significant goal of the W land use area is to re-form riparian vegetation along the creek. Where there is no preexisting natural vegetation at the time of adoption of this local law, any new development in this land use area that requires Planning Board approval pursuant to this section shall include a buffer that is a minimum of 75 feet in width as measured from the stream bank. Within this buffer, the Planning Board may require additional vegetation to be planted. The plant material should consist of indigenous trees and shrubs.
    - f. There shall be no placement of fill in the W Land Use Area.
    - g. There shall be no commercial advertising signs in the F/A district. Pedestrian signs, wayfinding signs and directional markers are acceptable off-premise signs in this district.
  - (2) Protection of water quality.
    - a. There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within the W Land use area unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
    - b. Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual.
  - (3) Docks and water surface use.
    - a. Boat launches, boat ramps, boat tie-ups, and non-motorized boat docks are allowed,



provided all NYS DEC permit requirements for stream disturbances are met. Not more than one dock shall be permitted per parcel located within the W Land Use Area.

- (4) Agricultural activities.
  - a. Soil shall not be tilled within 50 feet of the streambank.

### **2-8.9 Flood Protection District (FPD)**

- A. All requirements of Local Law #1 of 2004 (Flood Damage Prevention) shall be followed.
- B. All commercial and residential development in the designated floodway and all floodzone areas where the ground level is five feet below flood level are prohibited.
- C. If a proposed building site is in a permitted location that has a flood hazard, any proposed new construction or substantial improvement, including prefabricated homes, shall refer to Federal Emergency Management Agency construction standards including:
  - (1) Buildings shall be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure.
  - (2) Buildings shall use construction materials and utility equipment that are resistant to flood damage.
  - (3) Buildings shall use construction methods and practices that will minimize flood damage.
- D. The installation of all public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage.
  - (1) All water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All Schoharie County Department of Health requirements for septic systems in a flood zone must be met.

### **2-8-10 Historic Overlay District (H)**

- A. Purpose and Applicability: It is hereby declared that the protection, enhancement and perpetuation of landmarks and historic places in the Village of Schoharie are necessary to promote the economic, cultural, educational, and general welfare of the community. Specifically, the Village Board of Trustees, believe that the identity of a people is founded on its past. In this regard, the Village of Schoharie has many significant historic, architectural and cultural resources that constitute its heritage. The following provisions are intended to protect and enhance the landmarks and historic areas that represent distinctive elements of historic, architectural, and cultural heritage; foster civic pride in the accomplishments of the past; protect; and enhance attractiveness to visitors.
- B. The following regulations are established applicable to buildings and projects within the Old Stone Fort Historic Overlay area:

(1) All new construction or additions, major exterior alterations or demolitions of existing buildings must be in keeping with the general character of the area. Normal maintenance such as painting, re-siding, re-roofing, window replacement, reconstruction of porches or accessory buildings do not require Planning Board review.

(2) Architectural plans including elevations for all such reviewable construction or alterations must be approved by the Planning Board.

(3) The Planning Board shall have thirty (30) days from the submission of such plans to approve, approve with modification or disapprove such plans. If no action is taken within this thirty-day period, the plans shall be considered approved.

C. Where the proposal includes a use that requires Site Plan Review or special use approval, all requirements of Chapters 4 and 5 shall be met. In such case, the Planning Board shall review the Historic District Application concurrently with those reviews and shall follow all required procedures and time frames of those chapters.

D. For all applications that do not require site plan review or special use permits, the Planning Board shall follow these procedures:

(1) At the first meeting after receipt of an application for review in the Historic District, the Planning Board shall determine whether the application is complete. If the application is deemed incomplete, the Planning Board shall notify the applicant within five calendar days and provide the applicant with a list of missing items that are required.

(2) Within 45 days, the Planning Board shall approve the application, approve it with modifications, or deny the application. The Planning Board shall act as quickly as possible in reviewing and approving applications to minimize delays to applicants. The time frames may be extended only upon mutual agreement with the applicant. Failure of the Planning Board to approve, approve with modifications or deny a completed application within the time frames established in this section will result in automatic approval of the application. Unless a project requires Site Plan Review or a Special Use Permit, no public hearing for a historic district permit shall be required.

(3) All Planning Board decisions shall be in writing. Reasons for any conditions placed on the application or for denial shall be clearly stated.

(4) The decision of the Planning Board shall be filed in the Office of the Village Clerk, with the applicant, and the Village Code Enforcement Officer within five business days. If the Planning Board approves the application, the Code Enforcement Officer shall issue a Building Permit provided all other code requirements are met.

(5) If the applicant wishes to make substantial changes to an already approved application and plans, the applicant shall make a new application under the provisions of this section.

E. Standards for Development

The Village of Schoharie Planning Board, in considering the appropriateness of any proposed new construction or exterior alteration of an existing structure shall consider the historical or architectural significance of the building, including any appurtenant fixtures, such as signs. Consideration will also be given to the relationship of such features to other buildings, structures on the lot, and the

street within the Historic District. The following standards apply:

- (1) The building should not encroach, diminish or otherwise lessen the significance of other structures or uses within the district.
- (2) Buildings and structures that contribute to the character of the Historic District will be retained, with their historic features altered as little as possible. Any alteration of existing buildings and structures must be compatible first with its own historic style and, secondly, compatible with the character of the surrounding district.
- (3) Materials: It is recommended that the materials used in new construction be visually compatible with the adjacent structures. When altering a building, the materials used shall be the same as, or visually compatible with, the existing.
- (4) Roof shape: The roof shape of a new structure should be visually compatible with adjacent principal structures. Alterations to the roofs of existing structures must also be visually compatible with the existing roof shape.
- (5) Signs: All signs in the Historic District will comply with the following criteria:
  - a. If illuminated, all signs shall be externally illuminated.
  - b. All signs attached to buildings, or ground-mounted are not to exceed eight feet from the ground to the top of the sign structure.
  - c. No building mounted sign can be greater than 10% of the front building façade.
  - d. Illumination of sign-No sign shall have flashing or moving lights or emit any noise.

F. Factors for Review. In applying the above standards and principles, the Planning Board will attempt to ensure compatibility through evaluation of the following:

- (1) The general design, character and historical appropriateness.
- (2) The scale of the proposed alteration or new construction.
- (3) Form, texture, material.
- (4) Visual compatibility with surrounding properties.
- (5) The historic and architectural significance of the property.

#### **2-8-11 Regulations for the Multi-Family/Mixed Use Overlay District**

A. Permitted Uses: The Multi-Family/Mixed Use Overlay allows the following new residential uses or conversions: apartments; single family residential; tourist homes, including bed and breakfast inns and rooming houses, and two family duplexes. Permitted accessory uses include customary residential garages and sheds, and private swimming pools.

B. General Regulations and Standards.

(1) Two-family dwellings shall be permitted by special use permit on lots, if density requirements are met. Each unit shall be considered a dwelling unit. Two family dwellings shall be designed to have a massing similar to a one-family dwelling, and shall meet all other bulk requirements of this section.

(2) Accessory residential structures and accessory apartments. One accessory apartment may be located in an accessory structure or a principal building in this overlay land use area, subject to Special use permit approval and if the following conditions are met.

a. Any lot may contain one accessory apartment by right, if it has at least the minimum acreage required. An accessory apartment may be in the principal dwelling, provided the principal dwelling contains a minimum of 1500 square feet of habitable space and conforms with all other requirements of this section.

b. The owner of the one family dwelling in which the additional dwelling unit is to be located shall ensure that the building and grounds are maintained in good condition.

c. There shall be no more than one accessory apartment unit per dwelling or lot.

d. For an existing structure, the entry to the original structure dwelling and its design shall be such that the appearance of the dwelling will remain as a single family dwelling.

e. In addition to the parking requirements for a single family dwelling, two off street parking spaces shall be provided for each additional dwelling unit. All dwelling units and the structures in which they are situated shall meet all standards and requirements of the New York State Uniform Fire Prevention and Building Code.

(4) Multi-family dwellings. Multi-family dwellings shall require a special use permit and site plan review. The Planning Board shall determine the maximum density for multifamily dwellings in each case based upon relevant special use permit and site plan review criteria and the standards in this section. In no case shall the density exceed 4 dwelling units per acre of buildable land. A lot may contain more than one principal residential structure provided that it has sufficient acreage to comply with the density requirements of the land use area. Multi-family dwellings shall also meet the following design criteria.

(5) A mix of uses may be allowed by special use permit by the Planning Board for structures located within the MF/MU Overlay only for structures located on Main Street, Route 30. Most of these existing structures were originally constructed as residential uses and any conversion of such structures to mixed uses shall retain all exterior features to maintain the essential character of the structure.

(5) Design Criteria:

a. Multi-family and mixed use structures shall, to the maximum extent practicable, be similar in scale and resemble single family residential structures.

b. Off street parking shall be in the rear or to the side of the building and screened from the street. All requirements for parking Chapter 3-2.2D of this law shall be followed.

c. A dominant mass of the building must be presented to the street based on a single family

residence style with smaller additions to the rear or side as additional dwelling units.

d. Sidewalks shall be required.

e. Multi-family houses should align with the street, with small setbacks.

## Chapter 3 Supplemental Regulations Affecting All Districts

### 3-1 Performance Standards for Commercial Uses

#### 3-1.1 Applicability and Purpose.

New commercial development shall be appropriate in scale and design. To meet the goals of the Comprehensive Plan, design should balance continuity of traditional and contemporary approaches, but maintain local character and the visual appearance of the community.

All new commercial and community structures over 250 square feet in size, multi-family developments and other uses where noted must meet the performance standards in this section. It is the responsibility of the Planning Board and Zoning Board of Appeals to attach conditions that may be necessary to ensure that a proposed use will be compatible with its surroundings, with the purposes of this local law and with the Comprehensive Plan. These Boards shall deny any proposed use which they find will not or cannot be operated in a manner that satisfies the criteria in this chapter.

#### 3-1.2 Standards:

##### A. Building Design Standards

(1) **Applicability:** Agricultural buildings, single and two-family residences are exempt from this section. These design guidelines cover all new construction, when a change of use occurs, building additions over two hundred and fifty (250) square feet, and exterior renovations of any commercial building in the Village of Schoharie except for commercial buildings in the Village Central Business District. For Village of Schoharie design guidelines for the Central Business District, and for those associated with the historic district in the Village, see Chapter 2.

This section is accompanied by illustrations to give applicants a better understanding of the concepts desired and to be reviewed by the Planning Board during site plan proceedings. These guidelines do not require historic replication. The Planning Board shall also use Appendix A, Recommended Design Standards, published in the Town and Village of Schoharie Comprehensive Plan, dated January 1997 as guidelines for building design.

##### (2) Criteria

- a. **Setbacks.** Where appropriate, new construction shall maintain the common setback distance of its surrounding or nearby buildings as per Section 2-7.4.
- b. **Architectural Harmony and Trademark Architecture.** Structures that are visible from a public road shall be compatible with each other and in keeping with traditional architecture, design, massing, materials, and placement, and shall harmonize with traditional elements in the architectural fabric of the area. Architectural design shall be in keeping with the small-town nature of Schoharie. Trademark architecture that identifies a specific company by building design features is prohibited unless the design complies

with the architectural performance standards of this law.

- c. Height. Commercial buildings shall have a maximum height of two and one half stories where the finished first floor is above ground level.
- d. Rooflines and walls. Building design shall avoid flat and mansard roofs, and large areas of blank wall sections except in the Central Business District. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers and other similar elements are encouraged.
- e. Loading Docks. See Section 3-1.2 D(vii) for loading dock standards.
- f. Screening of Utilities. All air conditioning units, HVAC systems, stacks, elevator housing, and satellite dishes and antennas are to be screened from view from the public right of way and from adjacent properties using walls, fencing, roof elements, screening devices or landscaping.
- g. Drive-up Windows. Drive up windows, where allowed, shall be placed at the rear of the building to the maximum extent possible. Adjacent properties shall be screened from any glare from vehicles or building lights resulting from use of a drive-up window.

## B. Lighting

(1) Applicability and Purpose: This section sets criteria for providing lighting in outdoor public places to ensure safety and reduction of glare. It provides for standards to protect drivers and pedestrians from disabling glare from non-vehicular light sources that shine directly into their eyes and thereby impair safe travel, and to protect neighbors from nuisance glare from poorly aimed or un-shielded light sources. The Comprehensive Plan, page 80, indicates that the lighting of a site should provide security and visual interest while not projecting glare onto adjacent properties. All new outdoor fixtures installed and thereafter maintained, other than that serving agricultural buildings and one or two family dwellings shall comply with the criteria as specified below. All outdoor light fixtures using an incandescent lamp with a total cumulative wattage of 150 watts or less are exempt from all the requirements of this section.

### (2) Criteria:

#### a. Illumination.

1. Where used for security purposes or to illuminate walkways, roadways, and parking lots, only shielded light fixtures shall be used. On-site lighting should be located to avoid harsh glares which distract the motorist's line of site. The luminaire shall emit no direct light above a horizontal plane through the lowest direct light emitting part of the luminaire. Fully shielded fixtures are required. The pole height to spacing ratio shall be not more than 1:6 (for example, an 18-foot pole height and a pole to pole spacing of 108 feet). The maximum height of the luminaire may not exceed 18 feet.
2. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
3. Direct light emissions shall not be visible above the building roof line for other upward

directed architectural, landscape, and decorative lighting.

4. Externally illuminated signs including building identification signs shall only use shielded light fixtures. No internally illuminated signs are permitted unless they are backlit signs as follows: when signs are composed of individual backlit letters which are silhouetted against a softly illuminated wall or when signs have individual letters with translucent faces containing soft-lighting elements inside each letter, as illustrated in the appendix.

b. Light Trespass and Glare.

All light fixtures shall be designed, installed, and maintained to prevent light trespass, as specified below:

1. Outdoor lighting, whether or not required by this Law; whether on private, commercial, industrial, municipal, or institutional property shall be designed, installed, and maintained in a manner which does not present a disabling glare hazard to drivers or pedestrians. All reasonable measures, such as altering pole height, changing bulb type or using shielded fixtures, shall be taken to prevent the projection of a nuisance glare onto neighboring properties. Outdoor light fixtures properly installed and thereafter maintained shall be directed so that there will be no objectionable direct light emissions.

2. At the property line of the subject property, illumination from light fixtures shall not exceed 0.1 foot-candles on adjacent residential property, or 0.5 foot-candles on adjacent business property, measured in a vertical plane.

3. The Planning Board shall use the following table as recommended foot-candles for safety and security:

<b>Location</b>	<b>Average Maintained Foot-candles</b>
Roadways, local residential	0.4
Roadways, local commercial	0.9
Parking Lots, residential	
Vehicular Traffic	0.5
Pedestrian safety, security, orientation	0.8
Parking Lots, commercial	
Vehicular traffic, medium activity lots	1.0
Vehicular traffic, high activity lots	2.0
Pedestrian safety, security, orientation	
Medium activity lots	2.4
High activity lots	3.6
Walkways and bikeways	0.5

Building entrances and exits	5.0
Material Storage access	5.0

4. The Planning Board may, as it deems appropriate, require that lighting be controlled by automatic timing devices to extinguish offending sources during specified periods to mitigate glare consequences. The Planning Board may also require that lighting, except for security lighting, be extinguished between the hours of twelve midnight and 6:00 a.m. for businesses that are not in operation during that time.

5. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall vegetation, fences, and similar screening methods be considered acceptable for reducing glare.

c. Fixture Design - Fixtures must be properly designed for the intended purpose. Lamps shall not be directly seen from normal viewing angles. Lamps shall be directed so that most light output is directed toward the surface to be lighted rather than emitted at undesirable angles.

1. Mercury-Vapor greater than 40 watts and Quartz Lamps are prohibited light sources.
2. Poles and fixtures shall compliment the architectural character of the development and surrounding area.

d. Installation

1. Lighting fixtures shall not be mounted more than the maximum permitted building height, or as permitted in 2(I).
2. Electrical feeds to lighting standards shall be run underground, not overhead.
3. Lighting standards in parking areas shall be placed a minimum of 5' outside the paved lot area or 5' behind perimeter tire-stop locations; or mounted on concrete pedestals at least 30" above the pavement, or protected by other acceptable means.
4. Directional lighting fixtures used for sign lighting shall be mounted so they are aimed directly at the sign and shall not cause light to shine outwards to cause glare that may be dangerous to vehicles.

e. Maintenance - Lighting fixtures used for safety and security lighting shall be maintained in proper working order to always meet the requirements of this law.

f. Plan Submission - see Chapter 5 for site plan review application requirements. Lighting plans shall be included in site plan review. Lighting plans submitted for review and approval for subdivision and land development and site plan review shall include a layout of proposed fixture locations, footcandle data that demonstrate conforming intensities and uniformities; and a description of the equipment, glare control devices, lamps, mounting heights and means, hours of operations, and maintenance methods proposed. Illumination intensities shall be plotted on a 10' x 10' grid.



### C. Landscaping Standards

(1) Applicability and Purpose: Existing vegetation and new plantings help integrate new development in rural areas, help maintain visual quality, screens and buffers adjacent uses, and softens or mitigates negative impacts of new development. All new commercial, community uses and parking lots are required to meet landscape standards. Landscape standards as outlined in this section are also required for a change of use, major subdivisions, and buffering existing farms from new, changed, or adjacent development.

#### (2) Criteria

a. Buffers. Landscape buffers shall be provided between all residential and new commercial uses. (See Section 3-2 for buffering requirements between commercial and agricultural uses.) Buffers may include planted trees and shrubs, hedgerows, berms, or existing forest land. The width of such buffer areas will depend upon the topography, scale of the use and their location on the property but shall normally be between fifty and two hundred feet. Landscaping shall be an integral part of the entire project area and shall either buffer the site from or integrate the site with the surrounding area or both.

b. Existing Vegetation. Building placement and lot layout shall be designed to relate to and incorporate existing vegetation. Insofar as practical, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.

c. Landscape Components. Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Selected landscape plants should be native to the area to the extent practicable. The Planning Board may require, especially in subdivisions, that shade trees three-inch in caliper or 12 feet in height be planted and maintained at twenty to thirty foot intervals along roads, preferably in the parkway between the road edge and sidewalk, if present, or within a ten-foot setback from the road edge to reinforce rural character.

d. Screening. Open storage areas, exposed machinery, and areas used for storing and collecting rubbish shall be screened from roads and surrounding land uses. Suitable types of screening include wood fences and dense evergreen hedges of five feet or more in height. Where evergreen hedges are proposed, a temporary fence shall be built to provide screening until the evergreens are of sufficient height.

e. Parking Lots. Landscape requirements for parking lots are contained in D(2)(vi) below.

### D. Parking Standards

(1) Applicability and Purpose: The Village of Schoharie desires to balance the need for safe, efficient parking lots, and the Comprehensive Plan goal of maintaining the rural and historic character found along Village roads. Because of the visual prominence of parking lots in many developments and commercial establishments, the Village of Schoharie has identified the need to regulate the appearance and design of parking lots in the Comprehensive Plan. All commercial and community uses except in the Village Central Business District and multi-family residential uses, are subject to parking requirements as outlined below.

(2) Criteria

a. Off street parking: Off-street parking shall not be visible from public view to the maximum extent possible. Off-street parking shall be located at the rear of a building. If rear parking is not possible due to lot constraints, then off-street parking may be located on the side of a building. Off-street parking lots in the front yard setback (located between the main street and the building), is prohibited.

The number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to community character and to environmental, historic, and scenic resources. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. In determining the parking requirements for any proposed use, the Planning Board shall consider:

1. The maximum number of persons who may be driving to the use at times of peak usage. Parking spaces should be sufficient to satisfy 85% of the anticipated peak demand. There shall be sufficient parking to meet demands of both employees and customers.

2. The size of the structure(s) and the site.

3. The environmental, scenic, or historic sensitivity of the site. In proposals located in sensitive areas, the Planning Board may require a reduction in the size of the structure or parking lot.

4. The Planning Board may refer to generally accepted traffic engineering and planning manuals can be reviewed. However, such standards should be used as a guide only and are likely to require excessive numbers of parking spaces.

b. Set-aside for future parking. The Planning Board may require that an applicant set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be attractively landscaped, but may not be used in a manner that would prevent it from being used for parking in the future. In cases where two or more developments are adjacent, the Planning Board shall require cross-access easements between adjacent parking lots to provide for interconnected parking lots and to facilitate traffic and control access on the main road. Shared parking facilities are encouraged.

c. Lighting in parking lots. The majority of lighting in parking lots must be extinguished within 1 hour of the end of closing. However, building security lights on motion detector switches are acceptable. Parking areas in which lights are necessary all night shall be lighted in a manner that does not result in glare to surrounding residential properties or cause a traffic hazard due to glare or color. See Chapter 3-2.2B.

d. Access to Parking Lots. Access to the parking lot from the main road or thoroughfare is limited to one curb cut.

e. Stacking Space and Aisle Width. Adequate stacking space (throat area) within the parking area must be provided so that exiting vehicles do not block access to parking spaces while waiting to exit. It may also be necessary to provide space to prevent entering traffic from backing up onto the public roadway. Aisles within parking lots should allow

adequate room for vehicles to move smoothly into and out of parking spaces. The necessary aisle width shall be determined based on the degree to which parking spaces are angled, and shall range from 12 to 25 feet.

f. Parking Lot Landscaping, Buffering, Screening

1. Parking lots located to the side of a building, but not those located to the rear of a building shall be screened from public view with landscaping, buffering or screening. This may be accomplished through the use of earthen mounds, wood or masonry walls, trees and shrubbery, or any combination to screen parking lots from streets and adjacent properties. Such screening shall be three feet high and visually impervious. The height of any required screening shall decrease where driveways approach sidewalks or walkways and shall not interfere with clear sight triangle requirements. Safety and visual access for vehicles shall be maintained by use of a minimum 6-foot height level for tree limbs, and shrubs or fence to a maximum of 3 feet in height.

2. For parking lots of thirty or more cars, landscaped areas are required within the lot. Use of planting strips six feet wide, constructed with sub-surface drainage and compaction resistant soil will provide adequate root growing space under pervious surfaces. One deciduous tree per six parking spaces is required for interior landscaping.

3. For parking lots of ten to 30-cars, interior landscaped areas are recommended at a minimum of one deciduous shade tree planted in a six-foot planting diamond or equivalent, for every six parking spaces. For parking lots of ten or fewer cars, interior landscaping may not be required if the Planning Board determines there is adequate perimeter landscaping.

4. Parking lot layout shall consider pedestrian circulation. Pedestrian crosswalks shall be provided where necessary and shall be integrated into the wider network of pedestrian walkways.

g. Loading and Service Areas. Loading areas vary with the specific uses proposed. Requirements for the number and locations of loading facilities shall be established by the Planning Board as with parking requirements, based upon the following considerations:

1. The expected maximum number of trucks using the loading facilities at times of peak usage.

2. The type of business, size of structure, and size of trucks to be servicing the structure.

3. The need to ensure safety by separating truck traffic and loading operations from pedestrian and automobile circulation.

4. The need to screen trucks and loading facilities from publicly accessible areas as well as from abutting properties, including the need for vegetative screening, buffers, and fencing.

5. The siting guidelines contained in Appendix A of the Comprehensive Plan.

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6. In addition, the following standards shall be followed for loading docks:
  - a. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off street loading areas shall not encroach on any required front or side yard, off-street parking area or access way. All uses with at least five thousand square feet of floor space shall have at least one loading space.
  - b. Loading areas or docks shall be placed behind or on the side of buildings in visually unobtrusive locations from the primary street to the maximum extent possible as determined by the Planning Board in consultation with the applicant. Screening and landscaping shall prevent direct views of the loading areas from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, fences, and landscaping, and shall be a minimum of five feet tall, and shall be visually impervious. Recesses in the building, or depressed access ramps may be used. Each required loading berth may be open or enclosed.

E. District Standards for Off-street Parking

(1) Off-Street Parking in residential districts. No open or enclosed parking area shall encroach on any required side or front yards or open areas.

(2) Off-Street parking in commercial and industrial districts. Open parking areas may encroach on a required side or rear yard to within three feet of a side or rear lot line. No parking may encroach on or be within any front yard. All parking lots shall be on the side or in the rear of the building. Off-street parking areas shall not be used for any purpose other than parking of vehicles for customer or employees use. There shall be no storage, servicing or dismantling of automobiles or other vehicles, loading or unloading, except as provided elsewhere in this chapter. All parking requirements of Chapter 2-2.2D shall be met.

a. In business, commercial and industrial districts, off-street parking areas may be used for loading or unloading, if: Such space shall not be so used for more than three hours during the period that the establishment is open for business, and such use shall be arranged so as not to coincide with rush-hour customer parking demand.

(ii) When a loading berth is required, it shall have the following dimensions: 35 feet long, 12 feet wide, 14 feet high.

F. Utilities

(1) Applicability and Purpose: The Comprehensive Plan has as one of its objectives to maintain neighborhood and rural character. Utilities and utility structures such as vaults, transformer pads, and utility poles negatively impact residential and rural character. This section applies to new commercial and community uses, when a change of use occurs (see definition), multi-family dwellings and major subdivisions. This also applies to utility work in right-of-way's along any State, County, and Village roads.

(2) Criteria

- a. All utilities shall be underground. Vaults and transformer pads shall be located to minimize visual intrusion on public space. Site plan procedures shall include review of utility plans and location.
- b. As part of this review, the Planning Board shall ensure that existing trees are maintained where possible and if not, replaced.

G. Farm stands and Direct Marketing Operations

(1) Applicability and Purpose: Temporary farm stands such as those conducted from a vehicle or other moveable wagon or structure are allowed. Temporary farm stands do not require site plan review or special use permits. They may require other approvals not covered by this law (for example, a vendors permit). The retail portion of a farm operation not more than five hundred square feet in size, and located at least twenty feet from all property lines and road rights of way are permitted by right in all locations in the Village. Farm-related businesses that are conducted outside the primary farm business such as equipment sales, and the retail portion of farm operations larger than five hundred square feet in size, require a site plan review.

(2) Standards.

- a. All applicable signage requirements of Chapter 3-1.2 must be met.

H. Signs

(1) Applicability and Purpose. The purpose of this section is to encourage use of attractive signs in the Village of Schoharie and promote a healthy business climate, while deterring the clutter and confusion associated with commercial roadside districts. Additionally, the purpose is to protect the aesthetic environment of the Village, and to ensure that signs comply with the Comprehensive Plan.

The specific purposes of this section are to: (a) Control the size, location and character of signs so they will not confuse, distract, mislead, or obstruct vision necessary for traffic safety, and (b) Control the aesthetics and attractiveness of signs in order to protect existing character, to mitigate any negative impacts on and to be compatible with, neighboring properties, and to create a more attractive visual environment in order to maintain community character, protect property values, and encourage economic growth.

(2) Standards. All signs in all land use areas shall conform to the following general requirements:

a. General Requirements

1. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light(s). Current time or temperature signs are allowed provided they meet the other standards in the Law. See (H) 19 for Digital Display sign standards.
2. No luminous sign, indirectly illuminated sign or lighting device shall be placed or directed to cause beams of light to be cast on any public highway, sidewalk or adjacent premises or to cause glare or reflection that will be a traffic hazard or nuisance.

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3. No pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices are allowed, (except for traditional barber poles). No sign may rotate or move (except those that swing in the wind). Flags, and flags depicting "open" or "closed" status of the business are allowed. See (H) 19 for Digital Display sign standards.
4. Except as provided, neon-type lighted signs and portable signs mounted on wheels are not allowed. Non-flashing, neon signs are allowed only in windows, provided they are inside the building, and where their colors harmonize with the building's exterior colors.
5. Freestanding or pole signs shall be set back at least 10 feet from any property line and 20 feet from a street line so as not to impede the line of sight for egress from a lot.
6. No projecting sign should extend into a public way or be less than 8 feet above a pedestrian way. No projecting sign should extend to a height above the maximum building height allowed.
7. Signs shall not be mounted on roofs or extend above the roof line (unless they are mounted on the face parapet wall which extends above the roof line, in which case it cannot extend above the top of the parapet).
8. No sign, except for traffic, regulatory, or informational sign, shall use the words "stop", "caution" or "danger", or should have red, amber, or green lights resembling a traffic signal, or should not resemble "stop" or "yield" signs.
9. Any sign not in use shall be removed within 6 months after cessation of business.
10. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
11. All billboards are prohibited.
12. Up to two off-premise signs per business that advertise business name and nature of the business are allowed, if they are equal to or less than 6 square feet each. Off-premise signs shall not be illuminated.
13. Temporary signs and Banners: Political signs are considered temporary signs. All temporary signs must be removed within 7 days after an election or the event advertised. Banners advertising an event or activity are considered temporary signs and are permitted as such. Banners advertising a product for sale are also considered temporary signs and must be removed within 7 days of sale.
14. Use Table 1 or Table 2, or both, for the dimensional chart. Measurement of this dimension includes any berm or landscaped base.
15. Portable signs: A new business, or a business in a new location, awaiting

installation of a permanent sign, may use a portable sign for a period of not more than 60 days or until installation of a permanent sign, whichever occurs first. Such a portable sign must meet all the requirements of this Law. A permit for such a portable sign is required.

16. Businesses located in corner buildings are permitted to have one sign for each street frontage.

17. Businesses with service entrances may identify such entrances with one sign that does not exceed two square feet.

18. Sandwich Board Signs: In addition to other signs, one sandwich sign per business is allowed. The sandwich sign shall not exceed twelve square feet and must be located within four feet of the main entrance to the business. The signs shall not interfere with pedestrian circulation, and must be removed at the end of the day.

19. Use of Motor Vehicles as Signs. Trucks and other motor vehicles used as a normal part of everyday business for delivery or transportation of merchandise or services shall not be considered a sign. Trucks and other motor vehicles that are not used in deliveries or transportation and which are parked on a lot or on the street shall be considered a sign and subject to all requirements of this sub-section (H). The truck or motor vehicle shall be considered an off-premise sign if it is not parked on a parcel of land where the principal use is located and shall meet all requirements of this sub-section (H).

20. Digital Display Signs.

(1) The message displayed on the digital sign shall be static and nonanimated and shall remain fixed for a minimum of 10 seconds. The minimum display duration shall be calculated based on the length of time it takes a car to pass the sign starting when the sign first becomes visible. The formula of duration = visibility distance (ft) divided by the speed limit (ft/second) shall be used for this calculation.

(2) The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.

(3) The transition time between changes in the sign face or message shall be less than one second.

(4) The sign must be equipped with brightness controls which shall be used to reduce the intensity of the light based on outside light levels.

(5) The digital LED display shall not have lighting that would compete with or distract from traffic signal lighting.

b. Dimensional Standards for signs in the Village of Schoharie.

1. Permitted signs must follow size standards listed in Table 3.1.2

2. One freestanding, pole, or non-pole sign per parcel is allowed. Each business located within the parcel may have one additional sign that is building mounted only.

3. See Chapter 2-8 for specific sign regulations related to each district.

c. Sign Bonuses. A size bonus shall be given to encourage better design if the applicant

meets certain design standards. The size of the sign, as determined in Table 3-1.2 above, can be increased by the following percentages, not to exceed a 20% total bonus increase:

- 10% when the sign is made of wood (or with some specific historical theme)
- 10% if the sign is designed to contain only the identification of the businesses without advertising products sold on premises
- 15% if the sign is the only sign identifying the establishment
- 15% if the sign is not used with illumination
- 15% for a ground sign
- 10% if the sign is in a landscaped planter that is four times the area of the sign.
- 5% of a nonconforming sign is replaced with a conforming sign.

**Table 3-1.2: Size Standards For On-Premise Signs in the Village of Schoharie.**

NA=Sign not allowed

I= Industrial Land Use Area

A=Agriculture

R=Residential

CBD=Central Business District

C= Commercial Land Use Area

PDA=Planned Development Area

F/A

	Village Land Use Area (See Note 1 for C, I and PDA Land Use Areas) No signs are allowed in the W district.			
<b>Free Standing Pole</b>	<b>A, F/A</b>	<b>R</b>	<b>CBD</b>	<b>C, I, PDA</b>
Height (max height in feet)	NA	NA	NA	10
Area (max square feet.)	NA	NA	NA	20
<b>Free Standing, Non-Pole</b>				
Height (max height)	6	6	6	10
area (max square feet)	9	9	9	20
<b>Awning Sign For Ground Floor Uses Only</b>				
letter size (max inches)	NA	NA	8	16
height above sidewalk (min. ft.)	NA	NA	8	8
Area of sign (square feet)	NA	NA	10	10
<b>Projecting Sign</b>				
Above grade Clearance, minimum (feet)	8	8	8	8 above Sidewalk 13 above Driveway
Area (each face) (max square feet)	12	6	16	24
<b>Wall or Building Sign</b>				



	Village Land Use Area (See Note 1 for C, I and PDA Land Use Areas) No signs are allowed in the W district.			
Size (max square feet)	12	6	16	32
<b>Total Number Signs Allowed per Premise</b>	2	2	2	2 (one freestanding, one building mounted per premise)

Notes: (1). For this purpose, adjoining parcels of land under the same ownership shall be considered one commercial premise. Individual buildings or businesses located on one premise are allowed one wall or building sign per business.

(2) Wall signs are allowed and shall have a total area not exceeding 10% of the wall area to which it is attached, whichever is less. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Where two or more wall signs are affixed to one wall, the gross display area shall be the total area of all signs.

d. Non-Conforming Existing Signs

1. Non-conforming existing signs shall be made to be in conformance with this section if such sign is to be replaced, or changed in size. Otherwise, non-conforming signs are to be allowed to remain. If a non-conforming existing sign is to replace with a conforming sign, a size bonus of 15% shall be given (section (c) above).

2. All signs shall be maintained in a safe structural condition. The owner of any sign deemed to be unsafe, unpresentable, or not in good structural conditions, shall be notified of the deficiencies, and will have 60 days from the time of such notification to remedy the problem or remove the sign. After 60 days, if such sign has not been replaced or repaired, the sign may be removed by the order of the Village Board of Trustees, and Code Enforcement Officer and the removal costs charged to the sign owner. Signs which constitute a hazard to public safety by reason of their location or physical condition may be removed or relocated by order of the Code Enforcement Officer. If the hazard permits, the person to whom the permit for such sign was issued shall be notified prior to such removal. Relocation of an existing sign under these circumstances shall not be considered an action which causes such sign to be made a conforming sign.

e. Design Guidelines for Signs

1. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors, and details of the building.

2. Wood and painted metal are the preferred materials for signs.

3. Sign colors should be compatible with the colors of the building facade.

f. Sign Permits and Sign Administration

1. See Chapters 4 through 7 for Permit Administration. No sign shall be erected

without a permit from the Code Enforcement Officer prior to placement, except those listed below. The application must include a) a scale drawing of the sign showing type of sign, b) dimensions, advertising content, materials, method and style of illumination, c) method of structural support, d) letter sizes, e) colors, f) support structures and g) location on the land or building in relation to existing buildings, roadways, driveways, sidewalks or paths, h) utility poles and other signs, I) date of erection of sign, and j) the name of the sign owner and person responsible for maintenance of the sign.

2. No permit is needed for the following signs provided they are equal to or less than the listed size, and not illuminated. All other signs not listed in this section require a permit.

Signs for which no permit is necessary prior to placement:

- sale or rental signs (6 square feet)
- signs denoting the architect, engineer or contractor where construction or repair is in progress (12 square feet). These signs must be removed within 30 days after completion of project.
- Professional and trade name plates (6 square feet)
- Home business signs (10 square feet and a maximum height of 3 feet)
- Signs which mark property boundaries, directional signs, prohibit trespassing, hunting, etc., or warn of hazards (4 square feet and maximum height of 3 feet)
- Signs giving the name of the residents or a dwelling and its address (4 square feet)
- Temporary signs such as for garage sales, non-recurring events, political campaign, fund drive, etc. or other events undertaken by a political, religious, charitable or educational organization, placed for no more than 60 days. (20 square feet).
- A bulletin board or similar sign connected with a church, museum, library, school, public or semi-public structures (15 to 20 square feet with a maximum height of 8 feet above ground level). One per premise.
- Sign identifying the name of a farm, and on-premises signs used in conjunction with the sale of farm products (24 square feet)
- Interior signs.
- Flags and flags depicting the “open” or “closed” status of the business.

3. Approved sign permits shall become null and void after 6 months if such signs have not been completely and lawfully installed as permitted.

4. For all signs that are to be erected in connection with a project requiring site plan review approval, sign approvals shall be conducted by the Planning Board in conjunction with the site plan approval process. If no site plan approval is required, signs shall be permitted and approved prior to issuance of building permits. The Code Enforcement Officer shall issue the sign permit when the sign is found to be in compliance with this section. Approval of a sign permit may be subject to conditions necessary to reduce any adverse impacts of a sign on neighboring residential properties. Such conditions may be, but are not limited to, the size, location, lighting, color, or means of structural support.

## 3-2 Performance Standards for Certain Agricultural Uses.

3-2.1 Applicability and Purpose: The Comprehensive Plan calls for the protection of farmland for agriculture, especially on prime soils. The policy of the Village is to protect agricultural land and agricultural operations so that these businesses can continue in a profitable and efficient manner. The following performance standards are designed to protect existing farms and farmlands from new uses that may conflict with farm operations, and to ensure that new land uses in and around farms are informed about adjacent farm operations and potential impacts. These standards are applicable to intensive agricultural uses and for subdivision and new land uses located within Agriculture and Floodway/Agriculture Land Use Areas, as noted below.

### 3-2.2 Standards

A. Intensive Agricultural Uses. Any agricultural operation that meets the CAFO standards and definitions must buffer their operation from adjacent uses that are unrelated to the agricultural operation. Buffers may be setbacks or use of vegetative screening.

B. Subdivision in Agricultural Districts. Insofar as practicable, new dwellings in any subdivision should be sited with flexible setbacks to ensure maximization of open lands for agriculture. The building envelopes should be located to disturb the least amount of prime or important soils as possible. The Planning Board may require applicants for major subdivisions to submit a Flexible Conservation Subdivision plan (See Chapter 6-9).

C. Required Disclosure Notice for Lands within 500 feet of Existing Agricultural Operations. Any landowners who sell or transfer property located within 500 feet of an existing agricultural operation are required to provide a disclosure notice to prospective buyers or transferees stating: *"It is the policy of this state and this Village to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This notice is to inform prospective residents or new land users that the property they are about to acquire lies partially or wholly within an agricultural district, or adjacent to an existing agricultural operation, and that farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust, odors, the operation of machinery, and the storage and disposal of manure. Owners, occupants, and users of this property should be prepared to accept such inconveniences and discomfort."* Receipt of the disclosure statement must be recorded on a property transfer report prescribed by the New York State Board of Equalization and Assessment.

D. Avoidance of Building on Prime Soils. In reviewing any subdivision, site plan or special permit application, the Planning Board or Zoning Board of Appeals shall require that structures (except farm structures) and impermeable surfaces be located, insofar as practicable, on those portions of a tract of land where they will have the least negative impact on agricultural soils potential and agricultural operations. Examples where not practicable include areas of steep slopes, wetness, or areas with difficult lot configurations or road access problems.

## 3-3 Home Based Businesses

3-3.1 Applicability and Purpose: The Village of Schoharie recognizes the need to nurture and encourage home-based businesses. Because some home-based businesses may require additional services and infrastructure and there may be negative impacts on traffic, signage, noise and other qualities, the Village desires to set specific performance criteria and review permits for home-based businesses. The

purposes of the following performance standards are to ensure that home businesses are compatible with other adjacent uses, to maintain the small village nature of Schoharie, to ensure that public facilities designed for residential purposes are appropriately used in the course of a home-based business, to ensure the peace and quiet of residential areas, and to allow residents to utilize their homes for employment while avoiding excessive impacts of noise, traffic, nuisance or other impacts. This section is applicable to all home-based businesses.

3-3.2 Standards. Home-based businesses shall be permitted in compliance with the following criteria and standards.

A. Employees. A home-based business shall be incidental and secondary to the use of a residence or home. It shall be conducted in a manner that does not give the outward appearance of a business, does not infringe on the right of the neighboring property to enjoy the peaceful occupancy of their dwelling unit, and does not alter the character of the neighborhood. A home-based business may be conducted within a dwelling unit or within accessory structures or both. The home-based business is to be conducted with not more than three non-resident assistants or employees at any one time.

B. Signs. Any signs used in conjunction with a home-based business shall meet the requirements of Chapter 3-1.2H of this local law, and shall not exceed 10 square feet.

C. Parking. Off street parking shall be provided as required in Chapter 3-2.2D (2). No more than one vehicle larger than a passenger vehicle may be parked in a location visible from a public road or neighboring properties.

D. Traffic. A home-based business shall not generate excessive traffic. In determining traffic conditions, the Planning Board shall consider both the character of the road on which the use is located and the volume of traffic that would otherwise be generated by a typical residential use.

E. Outside Storage. There shall be no exterior storage of materials, equipment, vehicles, or other supplies used in conjunction with a home-based business, unless it is screened from the road and from other properties.

F. Nuisance. No noise, vibration, smoke, electrical interference, dust, odors, or heat shall occur. The use of substances which may endanger public health or safety or that pollute the air or waters are prohibited. There shall be no use or storage of hazardous materials more than the quantities permitted in a residential structure.

G. The appearance shall be residential in design.

H. Retail sales shall be limited to goods made and/or prepared on site.

I. No other business shall be permitted to share, let, or sublet space for professional use.

J. All lighting, noise, sign and parking requirements of this law shall be met.

K. There shall be no exterior storage of materials to be used in conjunction with a home occupation.

L. There shall be no heavy earth moving equipment, tractor trailers, or other similar specialized vehicles stored upon the property utilized for the home occupation.

M. Adequate parking shall be provided for all home occupants, employees and customers so as not to cause parking congestion or a visual disturbance to the character of the neighborhood.

3-3.3 Approval Procedures. Table 2-6.1 indicates where home-based businesses are permitted. Minor home-based businesses do not require site plan or special use permit approvals but do need to meet all other standards of this section. Major home-based businesses require special use approval by the Planning Board in addition to meeting the standards of this section.

(1) Conditions of approval established by the Planning Board may specify:

- a. Hours of operation.
- b. Maximum number of customer/client visits that may occur in any one day.
- c. The maximum number of customers/clients that can be present at any one time.

### 3-4 Driveway Standards

3-4.1 Applicability and Purposes: The Comprehensive Plan recognizes that road size and type impact both the visual character and safety of an area. The Village do not want roads to be over-built, but at the same time, want to ensure that new roads, whether private or public, are suitable to accommodate farm machinery and emergency vehicles. This section does not apply to private roads and driveways serving one single residence on a single lot or for agricultural uses. The building permit shall be in accordance with standards described in this section. For all other driveways and roadways, they shall be reviewed as part of site plan, Special Use Permit or subdivision approval. This section does apply to all new and proposed roads in the Village of Schoharie as part of a subdivision or for commercial uses.

#### 3-4.2 Standards

A. Road design shall comply with the following standards:

- Access. Driveway grades between the street and setback line shall not exceed 10 %. The Planning Board, upon the recommendation of the Highway Superintendent or Village engineer, may also designate curve radii for driveway intersections with the street and may require special provisions to assure visibility. The purpose of such special regulations shall be to avoid what are commonly called “blind driveways”.
- Driveway Placement. To minimize curb cuts onto existing or proposed roads, or to maintain vegetated buffers along existing roads, the Planning Board may require adjoining lots to utilize a shared driveway, or two adjoining driveways with a single curb cut. Shared driveways are preferred over multiple curb cuts.
- Width, Location and Construction. Streets shall be of sufficient width, suitably located, and adequately constructed to accommodate prospective traffic and afford access for emergency services, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties. The design shall be coordinated to compose a convenient system with respect to topographical conditions, to public convenience and safety, and with respect to their appropriate relation to the proposed uses of the land to be served or abutted by such streets.
- Arrangement. The arrangement of streets in a subdivision shall provide for the continuation of adjoining principal streets. Provision shall also be made for future extension of streets into adjoining properties which are not yet subdivided, to facilitate future emergency services, movement of traffic, and efficient construction and placement of public utilities and services such as power, sewers, and water and drainage facilities. Where topographic or other conditions make

such continuation undesirable or impractical, the above conditions may be waived in part or whole. Cul-de-sacs are highly discouraged in any location within the floodplain.

- Relation to Topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property. Grades of streets shall conform as closely as possible to the original topography. When a subdivision street intersects an existing street, improvements to the existing street may be necessary to meet the requirements of these regulations for intersection design. Such improvements shall be the responsibility of the applicant.

B. All subdivision plats shall show roads clearly labeled “public road” or “private road”.

C. Common drives and common roads are encouraged. No common drive shall provide access to more than six lots. Private roads may serve up to 15 lots.

D. The Planning Board shall require that an offering plan is filed or a no-action or similar determination letter is obtained with the New York State Department of Law whenever a developer offers for sale a common interest in real property such as a shared road or driveway. This is to ensure that the developer puts purchasers on notice as to their liabilities and responsibilities or both for maintenance of the common road or driveway.

#### E. Private Road Requirements

(1) The Planning Board may approve paved or unpaved road access to lots in conventional or flexible conservation subdivisions. In granting such approval, the Planning Board must find that the proposed subdivision will meet the goals and objectives of the Comprehensive Plan by protecting the rural and scenic character of the community.

(2) Written approval from the appropriate agency (NYS DOT for example) shall be made before the Planning Board approves any private road.

(3) New private roads built after the effective date of enactment of this law must be maintained according to a recorded maintenance agreement, executed by the applicant as a condition of subdivision approval provided that the agreement provides for the perpetual care and maintenance of the private road, that the road will be maintained and kept open to permit emergency vehicle access, and that a written certification from a licensed professional engineer be done every five years to show that the integrity of the private road is adequate to meet its present needs.

(4) If such a maintenance agreement cannot meet these requirements, the Planning Board may require that a homeowner’s association be created to own and provide for the permanent care and maintenance of the private road.

(5) The Planning Board shall have the discretion to require a performance bond or the establishment of a maintenance fund, or both, to ensure the proper completion and maintenance of a new private road.

(6) No private road shall be offered for dedication to the Village of Schoharie unless it conforms to appropriate Village highway specifications in effect. The Village board shall be under no obligation to accept any offer of private road dedication even if the road meets all highway specifications.

#### F. Driveway Standards

- (1) No driveway centerline shall intersect a street line less than seventy feet from the intersection of any two street centerlines.
- (2) The maximum grade for any new driveway serving more than one single-family dwelling and connecting parking areas to a road shall not exceed ten percent between the street and the front setback.
- (3) The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting the required off street parking area to the road shall not exceed seven percent.
- (4) Notwithstanding the maximum permitted grades specified above, no driveway shall have a platform grade more than three percent within thirty feet of the edge of the pavement or within twenty-five feet of the property line of the road, whichever is greater.
- (5) Clear site lines shall be provided and maintained in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for 60', commensurate with the speed and volume of traffic on the highway.
- (6) Shared driveways are highly encouraged and may be permitted to serve up to six residences. Where rear lot owners own the whole road and other properties have right-of-way over said private road, or each owner of the subdivision owns a strip of the road, driveway maintenance agreements are required as a condition of any site plan, special use permit or plat approval.

### 3-5 Multi-family Residential Homes

3-5.1 Applicability and Purpose: The Village of Schoharie wishes to encourage affordable housing. This can be accomplished by allowing multi-family dwelling units. At the same time, the Village wants to ensure that large multi-family units fit into the neighborhood and have minimal impacts.

A. Accessory Residential Structures and Accessory Apartments. Accessory structures may be used for residential purposes in any land use area if the following conditions are met:

- (1) Any lot may contain accessory residential structures or accessory apartments by right, if the lot complies with the density requirements of the land use area.
- (2) The Planning Board may grant a special use permit allowing accessory dwelling units to be located on a lot which does not comply with (a) above, if the Planning Board finds that such additional dwelling units comply with Schoharie County Health regulations and with applicable sections of this Law. The Board may require, as a condition of the special use permit, that such accessory dwelling units may not be later subdivided onto separate lots. Such a restriction on future subdivision shall be implemented by means of a recorded conservation easement or deed restriction enforceable by the Village. The Planning Board shall have jurisdiction over special use permits for any project that includes new structures, additions to or conversions of existing structures.
- (3) No accessory residential structure shall be subdivided onto a separate lot unless it can satisfy

applicable density requirements of this Law.

B. Multi-family dwellings. Multi-family dwellings shall require a special use permit and site plan review. The Planning Board shall determine the maximum density for multifamily dwellings in each case based upon relevant special use permit and site plan review criteria and the standards in this section. In no case shall the density exceed 4 dwelling units per acre of buildable land. A lot may contain more than one principal residential structure if it has sufficient acreage to comply with the density requirements of the land use area. Multi-family dwellings shall also meet the following design criteria.

(1) Design Criteria:

- a. Multi-family structures shall, to the maximum extent practicable, be similar in scale and resemble single family residential units, but with multiple doors.
- b. Off street parking shall be in the rear or to the side of the building and screened from the street. All requirements for parking Chapter 3-2.2D of this law shall be followed.
- c. A dominant mass of the building must be presented to the street based on a single family residence style with smaller additions to the rear or side as additional dwelling units.
- d. Sidewalks shall be required.
- e. Multi-family houses should align with the street, with small setbacks.
- f. Common open space shall be provided for.
- g. Onsite pedestrian and vehicle circulation shall be included to link residential buildings with parking, adjoining streets, mailboxes, trash disposal, and other onsite amenities and designed to limit traffic hazards.
- h. Snow storage areas shall be indicated on the Site Plan and shall not interfere with required parking or traffic circulation.
- i. There shall be no blank front or side walls without windows, doors, or other fenestration. Windows, doors, porches, balconies, and entryways shall compose at least 30% of the length of the front elevation on each floor.
- j. Where more than one building is provided for, there shall be space between buildings for emergency access.



### 3-6 Mobile Homes

#### 3-6.1 Mobile homes.

All new single or double wide mobile homes are prohibited from all land use areas within the Village of Schoharie. Replacement of either existing single-wide or existing double-wide mobile homes is permitted if the replacement was manufactured no more than five years prior to time of replacement. Construction trailers may be placed temporarily on construction sites for a period not to exceed the active construction period. Permits are to be renewable annually. Such trailers may be used for storage or workshop space, and shall not be used for residential purposes. Construction trailers shall require a permit from the Code Enforcement Officer prior to placement.

### 3-7 Telecommunications Towers and Antennas

3-7.1 Applicability and Purpose: The requirements in this section shall govern the location and site plan for commercial communication towers that exceed, and antennas that are installed at a height equal to or more than 30 feet above ground level, except for Terrace Mountain where special geographic restrictions apply. Such towers and antennas shall be deemed a special use under this Law and require site plan review. Height limitations for buildings and structures shall not apply to towers and antennas. No tower shall be used, built, moved, reconstructed, changed or altered except after approval of a special use permit and site plan in conformity with requirements set forth below.

Exceptions to these requirements are preexisting towers and antennas and new uses that are accessory and incidental to residential and agricultural uses. Any preexisting tower or antenna (that would otherwise be subject to this section) shall be allowed to continue as a non-conforming use without modification. Such non-conforming towers however shall not be extended in height or enlarged. The purpose of the section is to establish guidelines for the placement of commercial towers and antennas. The goals of this section are to a) Minimize the total number of towers and antennae throughout the community; b) Encourage applicants for towers and antennas to locate them in areas where the adverse impact on the community is minimized; c) Encourage applicants for towers and antennas to configure them in a way that reduces the adverse visual impact of the towers and antennas; and d) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently. Shared use of existing towers shall always be preferred to the construction of new towers.

3-7.2 Standards. The Planning Board shall observe the following performance standards in its review of tower applications:

- A. All towers and accessory facilities shall be sited to have the least adverse visual effect on the environment.
- B. Towers shall be painted and maintained in earth tones designed to blend into the natural surroundings unless other colors are required by the Federal Aviation Administration.
- C. In all cases, structures offering slender silhouettes (such as monopoles or guyed tower) shall be preferable to free standing structures except where such freestanding structures offer capacity for future shared use.
- D. At a tower site, the design of the buildings and related structures shall use material colors, textures, screening, and landscaping that will blend the tower's facilities into the natural setting and

built environment.

E. If the antenna is installed on a structure other than a tower, the antenna and supporting equipment shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure to minimize visual impacts.

F. Towers shall not be artificially lighted, unless required by the Federal Aviation Administration. If lighting is required, the Planning Board shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

G. Towers and antennas shall comply with all setbacks applicable to the land use area in which they are proposed to be located. The setback must be equal to or exceed 110% of the height of the tower. Additional setbacks may be required by the Planning Board to contain on-site icefall or debris from tower failure or to preserve privacy of adjoining property, or both.

H. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees or deposits of fill materials shall take place prior to Planning Board approval. The Planning Board shall require deciduous or evergreen tree plantings to screen portions of the tower from nearby residential property and from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, the Planning Board shall require at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height or its equivalent within two years of planting. In poor soil conditions, the Planning Board may require plantings on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

I. For new towers, a road and parking will be provided to assure adequate emergency and service access. Maximum use of existing public and private roads shall be made. Road construction shall reduce ground disturbance and vegetative cutting to the toe of fill, the top of cuts, or no more than ten feet beyond the edge of pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce the potential for soil erosion.

J. Height limitations shall be based on the development considerations as described above, except as follows: The maximum tower height measured from ground level shall be 60 feet within the Villages of Schoharie. Alternative tower structures may be up to and including 100 feet in height in any location.

3-7.3 Federal Requirements. All towers must meet or exceed current Federal standards with the authority to regulate towers and antennas. If such standards are changed, then owners of the towers and antennas governed by this section shall bring the towers and antennas into compliance with the revised standards within one year of the effective date of the change, unless a more stringent compliance schedule is required by the Federal government. Failure to bring towers and antennas into compliance with such revised standards shall form grounds for the removal of the tower or antenna at the owner's expense.

3-7.4 Special Application Requirements: Any person seeking to construct a tower or antenna shall be required to submit a special use permit application and a site plan approval application showing all existing and proposed structures and improvements. The site plan shall show new and existing roads and grading plans for new facilities and roads. The site plan shall also include documentation on tower capacity, justification for the height of any tower or antenna and justification for any land or vegetation clearing.

Additionally, the Planning Board shall require that the site plan include a completed Visual

Environmental Assessment Form and a landscaping plan addressing other standards listed within this section. The applicant shall show the visibility of towers and related facilities from key viewpoints within and outside the municipality. (A model Visual Environmental Assessment Form can be found as an appendix to Title 6, Part 617 of the Official Law of Rules and Regulations of the State of New York.) The Planning Board may require the applicant to submit a more detailed visual analysis based on the results of the Visual Environmental Assessment Form.

In addition to a Visual Environmental Assessment Form, the applicant shall submit a visual impact study based on models, computer enhanced graphics, computer simulations or perspective drawings or similar techniques designed to simulate the appearance of tower and antenna in relation to the surrounding environment. The Planning Board shall also require the applicant to submit aerial photographs with the proposed tower shown on the photograph. These application requirements shall not apply to alternative towers.

Each applicant for a permit to construct a new tower shall provide the Planning Board with an inventory of its existing towers that are within the jurisdiction of the Village of Schoharie and adjacent towns, including information about the location, height and design of each tower. The Planning Board and Code Enforcement Officer may share such information with other applicants. By sharing such information, the Planning Board and Code Enforcement Officer do not warrant that such other sites are available or suitable. The applicant for a new tower shall be required to submit a letter or report demonstrating good faith efforts to secure shared use from existing towers and documenting capacity for future shared use of the proposed tower.

The Planning Board shall also require that the applicant demonstrate need for the communications tower and provide proof of a valid FCC license.

3-7.5 Authority to Impose Reasonable Conditions: The Planning Board shall have authority to impose such reasonable conditions and restrictions as are directly related and incidental to the project. Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use or discontinuance for three years or more.

3-7.6 Decision: The Planning Board shall issue or deny a Special use permit and Site Plan approval based on written findings that set forth the relevant environmental impacts of the proposal with respect to the development considerations, balance environmental considerations with social and economic considerations, and provide a reasoned basis for the Planning Board's decision. Applications that meet the development considerations shall be approved or approved with reasonable conditions.

### 3-8 Resource Extraction and Mining

3-8.1 Purpose. The purpose of this section is to allow for extractive resource and mining activities to be carried out in harmony with the community and the environment in the Industrial Land Use Area. This is accomplished by requiring that extractive resource and mining activities undergo site plan review, review as a special use permitted use, and review under the State Environmental Quality Review Act in coordination with permitting activities of the New York State Department of Environmental Conservation under the New York State Mined Land Reclamation Act (MLRL) or any successor statute.

Any person who mines or proposes to mine from each mine site at least one thousand tons or seven hundred fifty cubic yards, whichever is less, of minerals, including peat and topsoil within a period of one year, shall be first required to obtain site plan review approval and a special use permit. Where a

State Mined Land Reclamation Law permit is required, the Planning Board shall have authority to review the following in relation to any proposed mine:

- Ingress and egress to the mine on village or private roads;
- Routing of trucks through the Village;
- Dust control and hours of operation;
- Setbacks from property lines;
- Visual impacts, screening including vegetative cutting;
- Off-site vibrations; and
- Water quality.

3-8.2 Special Standards. The Planning Board shall approve or approve with conditions, the Special Use Permit and the site plan review application if the mine or resource extraction activity meets the conditions of the Special Use Permit, and if the mining or extraction activity can be carried out in harmony with surrounding land uses and in keeping with the goals of the Comprehensive Plan. In judging impacts the Planning Board shall consider all impacts accruing during the life of the mine or resource extraction activity. The Planning Board may impose conditions on setbacks from property lines, truck traffic, dust control on roads, screening of the mining or resource extraction activity, and impacts on water quality.

3-8.3 Application of the NYS Mined Land Reclamation Law and the State Environmental Quality Review Act. Mines or resource extraction activities needing both a Special Use Permit and New York State Mined Land Reclamation Law permit are hereby classified as Type I actions under the State Environmental Quality Review Act (pursuant to 6 NYCRR §§617.4).

3-8.4 Preexisting Mines and Resource Extraction Activities. Any mine that is lawfully in existence on or before the effective date this law, and that would otherwise require a special use permit and site plan review hereunder, may continue to operate so long as it is subject to a permit under the MLCL. Any increase in the number of cubic yards or tons of mined material that varies from a NYS DEC Mining Permit, or when any expansion of a mine takes place shall also require site plan approval and a special use permit. Where the Planning Board undertakes a site plan review or special use permit review of a pre-existing mine it shall review both the proposed expansion and the pre-existing aspects of the mine for the following:

- Ingress and egress to the mine on village or private roads;
- Routing of trucks through the Village;
- Dust control and hours of operation;
- Setbacks from property lines;
- Visual impacts, screening including vegetative cutting;
- Off-site vibrations; and
- Water quality.

### 3-9 Junkyards; Storage of Certain Wastes, Unregistered Motor Vehicles and Junk Cars

3-9.1 Applicability and Purpose: Junkyards, as defined in the glossary of this law, are only permitted in the Industrial Land Use Area subject to the applicant obtaining a Special Use Permit and undergoing site plan review for the proposed use. Junkyards are prohibited in other land use areas.

The purpose of this section is to ensure that junkyards - as much as they may be permitted to occur- are set back and screened from adjoining landowners and from public rights-of-way and to ensure that they do not pose an environmental threat to natural resources.

### 3-9.2 Standards.

A. Junkyard prohibitions. The following prohibitions shall apply to new and existing junkyards. Junkyards shall be set back seven (700) feet or more from any property line and nine hundred (900) feet or more from any well or waterway on the same or neighboring property. No junkyard, outdoor storage area for construction or other heavy equipment or vehicles, or display, storage, or collection of junk or junk cars shall be permitted in a location that is visible from adjoining properties or public roads. Storage of hazardous, industrial and regulated medical wastes, as those terms are defined in Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR Part 360), is prohibited.

Unregistered Motor Vehicles and Junk Cars in the Village of Schoharie. It shall be unlawful for any person to store or deposit or cause, suffer or permit to be stored or deposited any abandoned, junk or unregistered motor vehicle or part or piece thereof on any private or public property in the Village of Schoharie, except within a garage or other completely enclosed structure.

B. Site Plan Review Considerations. The Planning Board shall incorporate the following conditions into any site plan approval for junkyards:

(1) Screening and Buffer Areas. Buffering from noise and dust, and screening from visibility shall be provided by a continuous vegetative screening consisting of dense evergreen planting or hedgerow. The height of the border buffering or screening shall be not less than six (6) feet and shall take into consideration the topography of the site area.

(2) Stacking of Stored Material and Visibility. No material shall be stacked, piled or stored above the height of the screening or buffering, planting, or fencing, nor shall material be visible through such border.

(3) Access Drives. Access drives shall be finished with a surface that will assure that it will be maintained free of dust and debris. Surface materials may include oil and chip, compact gravel, or blacktop.

### C. Special Provision Relating to Nonconforming Junkyards

Any lawfully existing junkyards not in conformity with this section must come into conformity with this section within three years (3) from the effective date of this law. Junkyards that are lawfully existing on the effective date of this law may not expand the amount of land they occupied on the effective date of this law.

### 3-10 Rear “Flag” Lots

A rear or “flag” lot is a lot on which the buildable area is located generally to the rear of other, separate lots. Rear lots have frontage on the same private or public road as adjacent lots but have access to the road via a strip of land that does not have the minimum road frontage ordinarily required. Other than not meeting the minimum road frontage requirements, rear lots meet lot requirements and bulk dimensions. It is the policy of the Village of Schoharie to encourage flexibility for development which is screened from view.

Accordingly, it may be desirable to locate development on rear lots without compliance with otherwise applicable road frontage requirements. In all land use areas, building permits may be issued for

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structures on lots that have a minimum of public or private road frontage or for those lots that gain access by right-of-way easement over other lands only under the conditions in this section. Rear lots may be created where they will not endanger public health and safety, and will help preserve natural, historic and scenic resources. The following requirements apply to rear lots:

- A. Each rear lot must have either a minimum frontage of 16 ½ feet on an improved public or private road, or a deeded right-of-way easement over other lands, providing legally adequate and physically practical access to a public or private road.
- B. Density for rear lots shall be one and one-half (1 ½) that as listed in the density table. This section shall not apply to flexible conservation subdivisions on rear lots.
- C. Rear lots must meet all other requirements for a lot in the applicable land use area. For purposes of determining front yard setbacks, the front yard shall be the yard area lying between the principal building and the public or private road from which access is obtained.
- D. No more than six (6) lots may be served by a common driveway. Subdivisions of five or more rear lots must satisfy the requirements for flexible conservation subdivisions. All rear lots must have safe access for fire, police and emergency vehicles. The proposed rear lots must not result in degradation of important natural resource and landscape features, including but not limited to ponds, streams, steep slopes, ridgelines and wetlands. When necessary to satisfy these criteria, the Planning Board may require the applicant to grant a conservation easement or other recorded instrument or restrictive covenant enforceable by the Village that limits the area within which the house and driveway may be constructed on the rear lot (building envelope).

### 3.11 Transient Camping and Recreational Vehicle Campgrounds

- A. Purpose. To address the vision and goals of the Village of Schoharie Comprehensive Plan, Long Term Recovery Strategy, and Waterfront-Recreational Assets Plan, the Village of Schoharie desires to enhance public access to the Schoharie Creek for recreation by providing an incentive to applicants seeking approval of a campsite or campground use in the Village. The Village Board of Trustees may grant all or part of a one-time density bonuses as an incentive.
- B. Design standards and general requirements.
  - (1) A campground shall have a gross area of at least 15 contiguous acres of land in single ownership or under unified control.
  - (2) All campgrounds and campsites shall require site plan and special use permit approval by the Planning Board prior to commencing any such activities.
  - (3) The density of campsites shall be a maximum of 4 per acre. The density of campsites shall be calculated on a net basis using only the acreage on the parcel that is eligible and available to be used for campsites. The applicant shall submit documentation to the Planning Board that there is water and sewer capacity to accommodate the requested number of campsites, and that traffic related to the campground will not adversely impact local roads or create traffic hazards or congestion. No campground shall exceed a total of 150 campsites unless a density bonus pursuant

to 3.11 (B) (4) has been approved by the Village Board.

(4) Density Bonuses. Additional density of campsites may be granted by the Village Board of Trustees as an incentive for the improvement of the Schoharie Creek, or for provision of public access to the Schoharie Creek as follows:

a. Approval of any campsite density bonus is at the sole discretion of the Village Board.

b. A campsite density bonus incentive may be granted only when the community benefits would not otherwise be required or likely to result from the applicable planning process before the Planning Board. Incentives shall not be granted where the public access offered is already required under other provisions of the Village zoning law or other Village of Schoharie Law or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.

c. Incentives. Notwithstanding any provision of Village, County, or State law or infrastructure capacity that limits or restricts the maximum density of a proposed campground project, an applicant may apply to the Village Board for a one-time maximum density bonus to increase the campsite density in exchange for the following benefits. Any density bonus must be reviewed and approved by the Village Board prior to any review and approval of the campground application by the Planning Board. The total maximum density bonus an applicant is eligible for is 25% as follows:

1. Public Access and Recreational Uses of Waterfront Lands. A bonus may be granted for the allowance of free public access to waterfront or recreational lands through right of way or deed restriction, including but not limited to pathway or trail access to stream and streambanks, access to old railroad beds, access to other open space lands for recreation, or provision of other trails and trail linkages to recreational areas in the Village. Up to a ten (10%) increase to the maximum campsite density may be approved. When issuing this density bonus, the Village Board shall specify what type of public access is being provided for.
2. Permanent protection of waterfront land through a conservation easement. An additional bonus may be granted when a dedicated conservation easement permanently protects waterfront lands and grants public access to a stream or recreation area including pathway or trail access to stream and streambanks, access to old railroad beds, access to other open space lands for recreation, or provision of other trails and trail linkages to recreational areas in the Village. Up to a ten (10) percent increase to the maximum campsite density may be approved. When issuing this density bonus, the Village Board shall ensure that a properly executed conservation easement is being provided for.
3. Streambank Improvements. An additional bonus of five percent (5%) may be granted for streambank improvements along the Schoharie or Fox Creeks. All such streambank improvements must be designed in conjunction with the Schoharie County Soil and Water Conservation District, and shall have all required local, state or federal permits as may be required for such work.

d. All density bonuses shall be approved by the Village Board prior to Planning Board review of the project so that the full set of plans may be considered as part of the site plan and special use permit requirements.

e. The Village Board shall evaluate the environmental impacts of issuing a campsite density bonus as per 6 NYCRR Part 617 (SEQR). The Village Board shall ensure that there shall be no adverse environmental impact or adverse impact on community services and water, sewer, and road infrastructure resulting from the approval of additional density.

f. Information provided to the Village Board to analyze potential environmental impacts of issuing any campsite density bonus may also be used for subsequent site plan and special use permit environmental reviews.

(5) Campgrounds where lands are contained in the Waterfront Land Use Area. No fill, recreational vehicle campsites, enclosed or partially enclosed permanent structures, permanent structures, concrete pads, fuel stations, permanent or temporary bath houses, or toilets are allowed in W portions of a campground. The following campground activities are permitted with site plan and special use approvals in the W Land Use Area:

- a. tent campsites (no vehicles).
- b. Trails, launch, landings, stream access, and other recreational facilities such as picnic areas provided all requirements of any Flood Damage Prevention Law are met (Local Law #1 of 2004 or subsequent amendment).

(6) Campgrounds where lands are contained in the Floodway/Agricultural Land Use Area. No fill, permanent structures, concrete pads, permanent bathhouses, permanent toilets, or fuel stations shall be allowed in the F/A Land Use Area. Partially enclosed structures gravel campsite pads or gravel roads, temporary bath houses or temporary toilets, and water and sewer utilities are allowed in the F/A portions of a campground provided all requirements of any Flood Damage Prevention Law are met (Local Law #1 of 2004 or subsequent amendment) and site plan and special use permit approvals have been granted. Additionally, the following campground activities are permitted in the F/A Land Use Area with site plan and special use approvals:

- a. tent campsites
- b. Recreational facilities not requiring permanent structures, or concrete pads
- c. Buildings existing at the time of adoption of this local law may be used for a campstore, LP filling station, gate house, office, and rental office for recreational equipment.
- d. Campsites for recreational vehicles without concrete pads.

(7) Campgrounds where lands are contained in the Agricultural Land Use Area. No fuel stations shall be allowed in the A land use area. All fill, permanent enclosed or partially enclosed structures, concrete pads, permanent bathhouses, or permanent toilets associated with a campground use are allowed in the A Land Use Area only when all requirements of any Flood Damage Prevention Law are met (Local Law #1 of 2004 or subsequent amendment) and site plan and special use permit approvals have been granted. Additionally, the following campground activities are permitted in the A Land Use Area with site plan and special use approvals by the Planning Board:

- a. Tent campsites
- b. Campsites for recreational vehicles
- c. Temporary or permanent campground support facilities such as but not limited



to recreational facilities, camp store and maintenance building, provided they meet all requirements of the Flood Damage Prevention Law (Local Law #1 of 2004 or subsequent amendments).

(8) Campgrounds in all other Land Use Areas in the Village are prohibited.

(9) No recreational vehicle or tent site or platform shall be located closer than 100 feet to the street right-of-way or any adjacent property line and must be buffered by vegetative screening.

(10) There shall be screening approved by the Planning Board, and placed between the campground and any adjacent residential property. All approved screening shall be maintained after placement by the campground operator. The Planning Board may require a minimum tree caliper at the time of planting to ensure effective screening. Screening shall be such that balances the need for maximum screening of adjacent residences with minimizing blocking views of the Schoharie Valley.

(11) One off-street parking space shall be provided for each campsite, in addition to the area provided on each site for placement of the recreational vehicle or tent.

(12) All internal streets shall be a minimum 12 feet in width. Gravel roads are preferred. Paving shall be minimized.

(13) The campground shall be serviced by a municipal or approved private water and sanitary sewage disposal system, reviewed and permitted as per New York State Department of Health requirements and consistent with any other local or county laws. No individual campsite sewage disposal shall be permitted. All sites provided with on-site sewage connections shall be connected to a community system for the common use of campground occupants and shall fully comply, as evidenced by approved plans, with standards imposed by the New York State Department of Health, Schoharie County Department of Health, and the Village of Schoharie. Temporary bath houses or portable toilets shall be removed at the end of each season, but they may not be placed in any location within W land use area along the Schoharie Creek unless required by the health department regulations. Electric and cable connections may be provided for each campground site at the discretion of the applicant. For water provision, see (24), below. A campground shall have an adequate supply of potable water complying with New York State Department of Health regulations. A campground system for all campsites may be provided for. If campground-wide water sources are not supplied for individual campsites, then a water source shall be provided at one per six campsites.

(14) Common use areas for open recreational facilities may be provided, including but not limited to picnic pavilions, baseball fields, volleyball courts, basketball courts, hiking trails, docks, and other similar facilities.

(15) Entrances and exits to campgrounds or recreational vehicle campgrounds shall be designed for safe and convenient movement of traffic into and out of the facility and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into or out of the campground shall be through such entrances and exits, which shall be limited to a maximum of two each except where safety demands and the Planning Board has approved the same. The radii of curbs and pavements at intersections shall be such as to facilitate easy turning movement for vehicles with trailer attached. No intersection of an entrance and/or exit with a state, county or Village street shall be located where less than 500 feet of sight distance exists in either direction along the state, county or Village highway. The Planning Board shall pay particular attention to

road access and safety during site plan review.

(16) No parking, loading, or maneuvering shall be permitted on any public street, sidewalk, required buffer, or right-of-way, nor on any private grounds not part of the campground unless the owner has given written permission for such use.

(17) No tent site or recreational vehicle site shall be designed or used for permanent or year-round occupancy. All recreational vehicles in the campground shall be maintained in a transportable condition at all times. No permanent roofs, decks or other structures shall be attached to any RV. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited. Moreover, no campsite shall be occupied for more than 180 days (typically May 1 through October 31). No campground shall be the primary and principal residence of any occupant. Each campsite shall be used and occupied (excepting for occasional guests) for camping and recreational purposes only by a single household.

(18) The management of every campground shall be responsible for maintaining accurate records concerning the occupancy of all sites. The Village Code Enforcement Officer shall have access to, and the right to inspect under normal procedures for such inspections by the Code Enforcement Officer, records for evidence of permanent residency or lack thereof. The Village Board and/or Code Enforcement Officer shall, in addition, have the authority, when any provision of this section is violated, to prohibit the occupancy of any and all campsites until the owners and/or management provide evidence of compliance with these provisions.

(19) No owner or occupant of any individual campsite within the campground shall permit or allow the dumping or placement of any sanitary or other waste anywhere within the development, except in places designated therefor. No outside toilets shall be erected or maintained on any individual campsite within the campground. Plumbing fixtures within any recreational vehicle placed upon sites in the campground shall use the sewage disposal system as provided for the development.

(20) No noxious or offensive activities or nuisances shall be permitted on any campsite or anywhere within such developments. Such nuisances shall include, but not be limited to; (1) noise which exceeds 55 decibels as measured at all property boundary lines; (2) uncontrolled fires or repeated burning (except for camp fires) which results in soot, cinders, smoke, noxious fumes, gases or unusual odors emanating beyond the property line of the development; and (3) any other activity that would exceed the limitations of the Village of Schoharie Code. Responsibility for meeting such requirements shall extend in all circumstances to individual occupants of campsites as well as campsite managers.

- a. No loudspeaker, public address system or amplifying device shall be permitted in connection with any campground, which can be heard beyond the bounds of the property lot where the use is located. There shall be no music after 10 PM.
- b. There shall be no fires at the campground after 11 PM. The Planning Board will require shared campfire areas for the campground and may limit the number of other fire pits to limit smoke and odor impacts. Fire pits and shared campfire areas shall be placed at the maximum distance away from Village residences.
- c. Fireworks are expressly prohibited.

(21) No animals shall be kept or maintained on any campsite, except the usual household pets (cats, dogs and the like). Pets shall be kept confined so as not to become a nuisance.

(22) No person shall burn trash, garbage or other like refuse on any campsite. All such refuse shall be placed and kept in fly-tight receptacles for the same, which shall be provided by the owners of the campsites. No owner or occupant shall permit the accumulation of litter or refuse or junk vehicles on a campsite. All refuse receptacles shall be emptied on a regular basis.

(23) Picnic tables, benches, and similar items of personal property may be placed on a campsite. All such items shall be removed at the end of the camping season. All personal property on a campground shall be maintained in good condition so as not to become unsightly.

(24) No recreation vehicle shall be parked on any street or roadway within the development.

(25) The campground shall be serviced by a municipal or approved private water and sanitary sewage disposal system, reviewed and permitted as per New York State Department of Health requirements and consistent with any other local or county laws.

(26) Every campsite shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access. The Planning Board shall consult with emergency services prior to site plan and special use approval to ensure emergency access.

(27) The operational standards contained in this section shall be incorporated in the management plan and shall be approved by the Planning Board in its review of site development plans for the campground. A plan or set of restrictions that does not adequately provide for conformance with this section shall not be approved. The plan and/or restrictions shall also provide the Village with the option (but not the obligation) of being a part to their enforcement and include a right for the Village to periodically inspect under normal procedures for such inspections by the Code Enforcement Officer, the development for continued compliance with the plan and/or restrictions.

(28) Exterior lighting for the convenience and safety of campers shall meet all requirements of the Village of Schoharie Land Use Law and shall be fully shielded and directed downward to prevent light trespass beyond the property boundary line. A lighting plot plan shall be prepared as part of the site plan review of a campground. Outdoor lighting shall be minimized as much as possible. Where pathway safety lighting is required, low 3' high lighting bollards shall be used. No sports field lighting shall be allowed.

(29) There shall be no commercial recreational vehicle sales associated with the campground.

(30) No storage of recreational vehicles shall be allowed beyond the 180 days allowed for the camping season.

(31) A campground may also include areas for musical and similar entertainment events that are also open to the general public, provided such uses are occasional in nature and clearly accessory to the campground as the principal use of the property.

#### C. Licenses and fees.

(1) No person, partnership, association, limited liability or other company or corporation, being the owner, user, operator or occupant of any land within the Village of Schoharie, shall use or allow the use of such land for a transient camping activity or other form of camping regulated herein unless a license has been obtained as herein provided.

(2) The Village Code Enforcement Officer of the Village of Schoharie shall issue a license after

approval of the application by the Village Planning Board pursuant to Special Use procedures. Such application shall be also be subject to Site Plan Review to be processed coincident with the Special Use process. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer.

(3) No license shall be issued until the Code Enforcement Officer has received a written application from the applicant, the required fee as herein provided and approval of the application, plans and specifications by the Schoharie County Department of Health.

(4) All licenses issued hereunder shall be valid until March 31 of the following year. No later than January 1 of each year, applicants shall request or apply for renewal of such licenses. The Village Code Enforcement Officer shall inspect the premises to ensure continued compliance with this section. A finding of such compliance shall entitle the applicant to an automatic renewal subject only to such fees as may be required as per a Village of Schoharie Fee Schedule adopted by the Village Board. However, the Village Planning Board shall, subject to a public hearing, approve, disapprove or approve with modifications any renewal that involves proposed changes in the facilities or major changes in the operations connected with the campground.

(5) Any increase in the number of campsites shall be approved by the Planning Board and licensed by the Code Enforcement Officer.

(6) Each application for a new or supplemental campground license shall be in writing and signed by the applicant. The Code Enforcement Officer shall promptly transmit copies of the application and plans to the Village Planning Board, which shall review the application pursuant to the Special Use and Site Plan Review requirements herein. The Code Enforcement Officer, within 30 days of the filing of the Planning Board's action with respect to Special Use and Site Plan Review, shall issue the license. Each license application shall be accompanied by site plans and other data as shall be required herein for Special Use and Site Plan Review applications.

(7) The applicant, for any new license or transfer, shall pay the Village a fee as may be established by resolution of the Village Board.

D. Revocation of license.

(1) If the Code Enforcement Officer finds that a campground for which a license has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this section, he may service personally or by certified mail upon the holder of the license a written order which will require the hold of the license to correct the conditions specified in such order within 10 days after the service of such order.

(2) If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order, the Code Enforcement Officer shall revoke such license and the holder of the license shall thereupon immediately terminate the operation of such campground and held to be in violation of this law.

(3) However, if the owner or operator of such campground shall thereafter correct such conditions and bring the campground into compliance with this section, such owner may then apply for issuance of a new license for such campground.

E. Penalties for offenses; additional remedies.

The Code Enforcement Officer may, in the case of violations of the foregoing provisions by any campsite occupant, and in addition to other remedies available under this Zoning Law and, regardless whether or not such campground has a current license, remove or cause to be removed all camping facilities and persons associated with such activity. This shall include tents, vehicles, recreational vehicles, personal equipment and other goods. Such person or persons shall also be guilty of a violation and be punished as provided herein. The Code Enforcement Officer shall provide any violator who is not a repeat violator with a warning and order to immediately cease and desist in the violating activity and upon failure of the violator to do so shall institute the actions provided above. He may enter onto the grounds of any property for purposes of determining compliance.

### 3.12 Outdoor Wood Furnaces

All requirements of 6 NYCRR 247 (Outdoor Wood Boilers) shall be met within the Village of Schoharie. No outdoor wood furnaces shall be placed in any front yard setback.

### 3.13 Portable Outdoor Storage Units (PODS)

- A. Size of POD. A POD shall be no greater than 8 feet in height, 24 feet in length and 8 feet in width.
- B. Number of PODS: One (1) POD shall be permitted per property.
- C. Location of PODS: (a) The POD shall be placed either on the lawn, in the driveway or in an approved paved parking area at the furthest possible point from the street and at least 10 feet from the curb. (b) The POD shall not be placed within any public right-of-way or roadway including sidewalks.
- D. Duration. (1) Where a POD is used for the parking or storage of items for permanently moving to or from a residence, during any twelve (12) month period 3 commencing from the date of issuance of a permit, one (1) POD may be placed on or at a residential property for a period not exceeding fourteen (14) total days to load and fourteen (14) total days to unload. (2) Where a POD is used during construction or renovation, commencing from the date of issuance of a permit, one (1) POD may be placed for an initial period not exceeding three (3) months with an additional renewal of three (3) additional months thereafter in the event the construction or renovation project has not been completed. After an initial six (6) months, the applicant may request a month to month extension for good cause from the CEO. (3) Where fire, flooding, natural or man-made disaster has occurred causing substantial damage to a property, the CEO shall determine the time period for the POD.
- E. No POD shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, or goods for property other than at the residential property where the storage unit is located. Storage of hazardous material within the POD is prohibited.
- F. Occupancy of Container Prohibited. No human or animal shall occupy any POD except for the express purpose of loading or unloading the container. No heat source of any kind shall be placed in any POD.

### 3.14 Solar Facilities

- A. Private Solar Systems are permitted as per Table 2-6.1. All such energy systems shall require a building permit from the CEO prior to any construction of that system.
- B. Utility-Scale Solar Energy Systems. Utility-Scale Solar Energy Systems are permitted through the issuance of a special use permit as per Table 2-6.1 subject to the requirements set forth in this Section, including site plan approval. The application shall include the following:
  - 1) Blueprints showing the layout of the Utility-Scale Solar Energy Systems signed by a Professional Engineer or Registered Architect shall be required.
  - 2) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
  - 3) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  - 4) Decommissioning Plan. To ensure the proper removal of Utility-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Utility-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Utility-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Utility-Scale Solar Energy System is not decommissioned after being considered abandoned, the Village of Schoharie may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.
- C. Special Use Permit Standards for Utility-Scale Solar Energy Systems.
  - 1) Height and Setback. Utility-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
  - 2) Lot Size. Utility-Scale Solar Energy Systems shall be located on lots with a minimum lot size of 5 acres.
  - 3) Lot Coverage. A Utility-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
  - 4) All Utility-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board, consistent with the environment and neighborhood. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts. No fencing however shall interfere with any floodways or floodplains. The solar facility, including any

- proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from (1) Publicly dedicated roads and highways, including Route 30; (2) Existing residential dwellings located on contiguous parcels;
- 5) Any application under this Section shall meet any substantive provisions contained in the site plan requirements Chapter 5 of this zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. Further, all requirements of the Village of Schoharie Flood Damage Prevention Law (LL#2 of 2004) shall be met.
  - 6) There shall be a minimum 100-foot buffer between any component of the utility-scale solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land uses.
  - 7) When proposed on an active farmland located within the Village of Schoharie, a solar system shall not exceed 10 acres. Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or NRCS.
  - 8) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks more than that which already exists.
  - 9) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical.
  - 10) Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
  - 11) Any signage used to advertise the solar energy facility shall be in accordance with the Village's signage regulations.
  - 12) The Planning Board may impose conditions on its approval of any special use permit under this Section to enforce the standards referred to in this Section or to discharge its obligations under the State Environmental Quality Review Act (SEQRA).
  - 13) Abandonment and Decommissioning. Utility-Scale Solar Energy Systems are considered abandoned after 12 months without electrical energy generation and must be removed from the property. Applications for extensions shall be reviewed by the Planning Board for a period of six months.

### 3.15 Animal Agriculture in the Village of Schoharie

- a. Farm animals may be allowed as a special permitted use in the Agriculture and Floodplain/Agriculture districts, as well as on parcels in the Residential district that are greater than 3 acres in size pursuant to the following. If the animal population does not meet the table requirements (below), it would be subject to Planning Board approval.

b. Application submission requirements for animal agriculture in these districts shall include:

1. Location of all structures, barns, manure storage areas, ponds, equipment sheds, silos, and pastures to be included in the area used for farm animal purposes. Include parcel size and address.
2. Description of all fencing to be used.
3. Description of methods to remove or manage manure waste from animals.
4. Description the kind and number of animals to be raised.

c. The following farm animal densities are allowed:

1. Rabbits – No minimum acreage requirements if rabbits are kept in hutches.
2. Poultry, outdoor: ½ acre for 10 birds or less, one acre per 13 to 20 birds, no roosters.
3. Sheep, Goats – Maximum 3 adult animals per acre.
4. Alpacas and Llamas – Maximum 3 llamas and adult alpacas per acre.
5. Pigs –Maximum 3 head per acre.
7. Cattle – 1 adult animal per acre.
8. Horses – 1 adult animal per acre.
9. Miniature equine – Maximum 3 adult animals per acre.

d. These conditions must be met for animal husbandry:

1. Adequate acreage exists for proper care and feeding of animals.
2. Adequate methods are in place for addressing manure management.
3. Buffers are established by the landowner to ensure that noise or odors from the farm animals are minimized.
4. There is a 100’ setback from any building or structure used to store feed, manure, or barns that house farm animals from any property line, wetland or stream. Other setbacks to minimize noise, odor or risk of water pollution may be necessary.

e. All farm animals shall be fenced. No animal shall have direct access to a wetland or stream, spring or well on the lot on which the farm animal is located.

e. No roosters shall be allowed in any zoning district in the Village.



## Chapter 4 Special Use Permits

### 4-1 Purpose and Applicability

The Village of Schoharie wishes to allow a variety of land uses in most of their land use areas if such uses do not adversely affect neighboring properties, the natural environment, or the rural character of the Village. Many of the allowable uses described in this law are therefore permitted only upon issuance of a Special Use Permit by the Planning Board to ensure that these uses are appropriate to their surroundings and satisfy performance criteria in each particular case.

Uses requiring Special Use Permits are identified in the table of uses detailed for each land use area.

### 4-2 Required Plans

Because the impact of special permitted uses varies greatly, the information required to be submitted for a Special Use Permit will vary depending upon the scale of the proposed use and whether it is a Major or Minor Project.

4-2.1 Major Projects: An applicant for a Major Project (see Glossary for definition of “Major Project”) shall submit:

- A. A Major Project application form (as adopted by the Planning Board).
- B. A Site Plan and an Agricultural Data Statement (as defined in the glossary) if such a statement is required under Section 305-a of the New York State Agriculture and Markets Law.
- C. A narrative report describing how the proposed use will satisfy the applicable performance standards for the proposed use as well as any other applicable requirements relating to the specific use proposed.
- D. An Environmental Assessment Form or Draft Environmental Impact Statement.
- E. The Major Project application fee, as established by the Village Board of Trustees, and any required escrow deposit for review costs, as required by the Planning Board.

4-2.2 Minor Projects: An applicant for a Minor Project (as defined in the Glossary) shall submit:

- A. A Minor Project application form (as adopted by the Planning Board).
- B. A plot plan (see Glossary definition) drawn to scale with accurate dimensions providing information sufficient to fully enable the Planning Board to make an informed decision, and an Agricultural Data Statement as defined in the Glossary, and if required.
- C. A brief narrative describing the proposed use.
- D. An Environmental Assessment Form or Draft Environmental Impact Statement.
- E. The Minor Project application fee as established by the Village Board of Trustees and an escrow deposit (if required).

## 4-3 Procedure

### 4-3.1 Application

- A. Application for a Special Use Permit shall be submitted to the Code Enforcement Officer on forms prescribed by the Planning Board.
- B. If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant is encouraged to submit a single application for all such uses. All proposed uses on a single parcel or on contiguous parcels shall be considered together.
- C. Before filing an application, an informal meeting with the Planning Board is highly recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

## 4-4 State Environmental Quality Review Act Procedures

Upon receipt of all application materials, the Planning Board shall initiate the New York State Environmental Quality Review Act process by following the procedures described in Section 617.6 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

## 4-5 Referral to Schoharie County Planning Commission

4-5.1 Upon receipt of application materials it deems to be complete, the Planning Board shall refer any application for a Special Use Permit affecting real property within five hundred (500) feet of the boundary of the Village of Schoharie, , the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law (except for area variances) to the Schoharie County Planning Commission, pursuant to Article 12-B, Sections 239-1 and 239-m of the General Municipal Law of the State of New York.

4-5.2 This section shall not apply to any action covered by an agreement between the Schoharie County Planning Commission and Village of Schoharie, if such action is of local rather than inter-community or county-wide concern.

4-5.3 No action shall be taken on applications referred to the Schoharie County Planning Commission until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the complete application, unless the County and Village agree to an extension beyond the thirty (30) day requirement for the Schoharie County Planning Commission's review.

4-5.4 A majority plus one (1) vote of the Planning Board shall be required to grant any Special Use Permit that receives a recommendation of disapproval from the Schoharie County Planning Commission because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

#### 4-6 Agricultural Impacts.

The Planning Board shall comply with Section 305-a of the Agriculture and Markets Law in reviewing Special Use Permit applications.

#### 4-7 Public Hearing, Decision and Filing

The Planning Board shall conduct a public hearing on the application for a Special Use Permit within sixty-two days from the day a complete application is received by the Board. Public notice of the hearing shall be printed in the newspaper of general circulation in the Village, at least ten days prior to the date of the hearing. The applicant shall also notify all landowners within 500' of a project about the hearing directly through a mailed notice. All costs of such notification shall be borne by the applicant. The Planning Board shall grant, deny or grant with modifications or conditions the application within sixty-two days after the hearing on a Major Project or within thirty-two days of the hearing on a Minor Project. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. Any decision shall contain findings explaining the decision based on performance standards in this law. The Planning Board shall file its decision in the office of the Village Clerk, within five business days after the decision is rendered. A copy of the decision shall be mailed to the applicant.

#### 4-8 Expiration and Enforcement

4-8.1 A Special Use Permit shall be deemed to authorize only the particular special use or uses permitted, and shall expire if the special use or uses shall cease for more than twenty-four (24) consecutive months for any reason, or if the applicant fails to obtain the necessary building permit or fails to comply with the conditions of the Special Use Permit within twelve (12) months of its issuance.

4-8.2 Any violation of the conditions of a Special Use Permit or violation of the performance standards shall be deemed a violation of this Land Use Law, and shall be subject to enforcement action as provided herein.

#### 4-9 Amendments

The terms and conditions of any Special Use Permit may be amended in the same manner as required for the issuance of a Special Use Permit, following the criteria and procedures in this law.

#### 4-10 Combined Special Use Permit and Site Plan Approval

If the proposed use is a Major Project, the applicant must also obtain Site Plan approval from the Planning Board as provided in Chapter 6. Most minor Special Use Permit projects are also subject to site plan review. The Planning Board shall conduct the site plan and special use processes concurrently.

#### 4-11 Decision making

4-11.1 Consideration of Performance Criteria: In granting or denying Special Use Permits, the Planning Board shall take into consideration the following performance criteria:

- A. The general land use performance standards applicable to the proposed use.

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B. Compatibility of the proposed use with adjoining properties, with the natural and built environment in the area, with the purposes of this law and with the purposes and requirements of the land use area and any applicable Overlay Districts.

C. Adequacy of parking for the proposed use, and its accessibility to fire, police, and emergency vehicles.

D. Suitability of the property for the proposed use considering its size, topography, vegetation, soils, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads. The Planning Board may impose setbacks greater than those contained in this law if they are necessary to meet the goals of the law.

E. Environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.

F. Any restrictions or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with surrounding uses or to protect the natural and scenic resources of the community.

G. Compliance with the requirements of Site Plan Review.

### 4-11.2 Required Findings

A. The Planning Board shall not issue a Special Use Permit unless it makes a written finding that the proposed use, if conducted pursuant to the conditions attached to the Special Use Permit, will satisfy the performance standards for the use and the land use area.

B. If the Planning Board cannot make such a finding, it shall deny the Special Use Permit application.

## Chapter 5 Site Plan Review

### 5-1 Purpose and Applicability

The purpose of site plan review is to review the layout and design of a development occurring on a single parcel of land. Site plan review is meant to ensure that land use and development is appropriately designed for the community. The visual preference surveys in the Comprehensive Plan contain both negative and positive examples of various site plans. Anyone contemplating development in the Village of Schoharie should consult these pages for help in determining acceptable site planning in the Village of Schoharie. Land use and development is subject to site plan review as indicated in the Table of Uses. Consult the individual table of uses for each land use area determine whether a project is subject to site plan review. In addition, there are two levels of site plan review: minor and major projects. "Minor" and "major" projects are defined in the glossary. The respective definitions are repeated here:

**MAJOR PROJECT:** A proposed use that requires a Special Use Permit, site plan approval or both and that exceeds any of the thresholds for a minor project.

**MINOR PROJECT:** A use or combination of uses on a lot or a series of adjoining lots that requires either site plan review, a Special Use Permit, or both and that does not exceed any of the following limits:

- A. Construction of two (2) two-family units or a bed and breakfast or lodging facility with up to six (6) bedrooms.
- B. Construction of facilities or structures for a nonresidential use covering no more than three thousand (3,000) square feet of building footprint.
- C. Alteration of existing structures or expansion of such structures by no more than one thousand (1,000) square feet.
- D. Conversion of existing structures totaling three thousand (3,000) square feet or less to another use.

The project applicant shall state on the application for site plan review whether the project is a major or minor project. On receipt of the site plan review application, the Code Enforcement Officer shall make an independent determination as to the classification of an application. The Code Enforcement Officer shall consult with the Chair of the Planning Board whenever there is question as to the proper classification of an application.

### 5-2 Required information for site plan.

An application for site plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the applicant. Minor project site plans shall contain only such information listed below or as the Planning Board deems necessary to conduct an informed review. For minor projects the Planning Board may waive one or more such requirements provided it states a reasonable basis for doing so, as specified in subsection 5-5 of this Chapter. Major project site plans shall be prepared by a licensed professional engineer, architect or landscape architect and shall include the following:

5-2.1 Name of the project, boundaries, date, North arrow and scale of the plan.

5-2.2 Name and address of the owner of record.

5-2.3 A vicinity map drawn at the scale of two thousand (2,000) feet to the inch that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, and schools. The map shall also show all streets within two thousand (2,000) feet of the property. Such a sketch may be superimposed on a United States Geological Survey map of the area.

5-2.4 A site plan drawn at a scale of fifty (50) feet to the inch or such other scale as the Planning Board may deem appropriate. In addition to the site, all properties, subdivisions, streets and easements within two hundred (200) feet of the property boundaries.

5-2.5 The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances and all anticipated future additions and alterations.

5-2.6 The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls and fences. Location, type and screening details for all waste disposal containers shall also be shown.

5-2.7 The location, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.

5-2.8 The location, height, size, materials and design of all proposed signs.

5-2.9 The location of all present and proposed utility systems including:

A. Sewage or septic system.

B. Water supply system.

C. Telephone, cable and electrical systems.

D. Storm drainage system including existing and proposed drain lines, culverts, catch basins, head walls, end walls, hydrants, manholes, detention ponds and drainage swales.

5-2.10 Erosion and stormwater control plan to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table and flooding of other properties, as applicable. This plan must comply with the New York Guidelines for Urban Erosion and Sediment control.

5-2.11 Existing and proposed topography at two-foot contour intervals, or such other contour interval as the Planning Board shall specify. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one-hundred-year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within fifty (50) feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.

5-2.12 A landscape, planting and grading plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight (8) or more inches in

diameter located within any area where clearing will occur, forest cover and water sources and all proposed changes to these features. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains and drainage retention areas.

5-2.13 Land use area boundaries within two hundred (200) feet of the site's perimeter shall be drawn and identified on the site plan, as well as any overlay areas that apply to the property.

5-2.14 Traffic flow patterns within the site, entrances and exits and loading and unloading areas, as well as curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may require a traffic study which shall include:

- A. The projected number of motor vehicle trips to enter or leave the site estimated for daily and peak hour (and peak season) traffic levels.
- B. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
- C. The impact of traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
- D. The impact of traffic on pedestrian use of the corridor, including bicycle and walkers.
- E. The impact of traffic on residents along the road or upon other businesses located along the road.

5-2.15 For new construction or alterations to any structure, a table containing the following information shall be included:

- A. Estimated area of structure intended to be used for particular uses such as retail operation, office, and storage.
- B. Estimated maximum number of employees.
- C. Maximum seating capacity, where applicable.
- D. Number of parking spaces that are existing and requested for the intended use.

5-2.16 Elevations at a scale of one-fourth inch equals one (1) foot for all exterior facades of the proposed structure(s) or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.

5-2.17 Where appropriate, the Planning Board may request soil logs, percolation test results and storm runoff calculations.

5-2.18 Plans for disposal of construction and demolition waste, either on site or at an approved disposal facility.

5-2.19 Environmental Assessment Form or Draft Environmental Impact Statement.

5-2.20 Other information reasonably related to the application that may be deemed necessary by the Planning Board.

### 5-3 Standards and criteria.

In reviewing site plans, the Planning Board shall consider the Village of Schoharie Comprehensive Plan, applicable performance standards and site plan review standards set forth below. The Planning Board may also refer to the three-volume set of illustrated design guidelines published by the New York Planning Federation in 1994, entitled "Hamlet Design Guidelines, Building Form Guidelines" and "Rural Design Guidelines." It may adapt the recommendations of those documents to the requirements of this law.

#### 5-3.1 Layout and design.

- A. All structures in the plan shall be integrated with each other and with adjacent structures and wherever practical designed in the pattern of a traditional village or hamlet.
- B. Structures that are visible from public roads shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials and placement and shall harmonize with traditional elements in the architectural fabric of the area.
- C. Architectural design shall be in keeping with the small-town architectural character of the area. In general, the design shall avoid flat and mansard roofs, large expanses of undifferentiated facades and long plain wall sections.
- D. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
- E. The Planning Board shall encourage the creation of landscaped parks or squares easily accessible by pedestrians.
- F. Trademark architecture that identifies a specific company by building design features is prohibited unless such architecture meets the design performance standards of this law.

#### 5-3.2 Landscaping.

- A. Landscape buffers shall be provided between uses that may be incompatible, such as large-scale commercial uses and residences. Such buffers may include planted trees and shrubs, hedgerows, berms, existing forest land or forest created through natural succession. The width of such buffer areas will depend upon the topography, scale of the uses and their location on the property but shall normally be between fifty (50) feet and two hundred (200) feet.
- B. Landscaping shall be an integral part of the entire project area and shall buffer the site from or integrate the site with the surrounding area, as appropriate.
- C. Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants should generally be native to the region and appropriate to the growing conditions of the local environment.
- D. To the extent practical, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.



E. The Planning Board may require shade trees at least three-inch caliper to be planted and maintained at twenty-to forty-foot intervals along roads, at a setback distance acceptable to the Highway Superintendent.

F. For landscaping parking lots, see Chapter 3).

#### 5-3.3 Parking, circulation and loading.

A. Roads, driveways, sidewalks, off-street parking and loading space shall be safe and designed to encourage pedestrian movement.

B. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of connected parking lots, service roads, alleys, footpaths, bike paths and new public streets to connect adjoining properties may be required if appropriate.

C. Off-street parking and loading requirements of Sections 3-2.2D (2) (i) and (vii) shall be fulfilled, and parking areas shall be located behind buildings as required therein.

D. Access from and egress to public highways shall be approved by the appropriate highway department.

E. All buildings shall be accessible by emergency vehicles.

#### 5-3.4 Miscellaneous standards.

A. Buildings and other facilities shall be designed, located and operated to avoid causing excessive noise on a frequent or continuous basis.

B. Exterior lighting fixtures shall be shielded to prevent light from shining directly onto neighboring properties or public ways. Light standards shall be restricted to a maximum of eighteen (18) feet in height.

C. Drainage of the site shall recharge groundwater to the extent practical. The rate of surface water flowing off site shall not increase above pre-development conditions and shall not adversely affect drainage on adjacent properties or public roads.

D. Requirements for proper disposal of construction and demolition waste shall be fulfilled, and any necessary permits or agreements for off-site disposal shall be obtained.

E. Additional site plan requirements and standards for review set forth in other sections of this chapter shall be satisfied.

### 5-4 Procedure for major project site plan approval.

5-4.1 Submission. An applicant for Major Project site plan review (see Glossary for definition), shall submit three (3) copies of the site plan review application to the Village Clerk, who shall distribute them to the Planning Board and such other municipal boards, officials and consultants as the Planning Board deems appropriate. In addition to the site plan drawings, the applicant shall submit:

A. An Environmental Assessment Form or Draft Environmental Impact Statement. For major projects that are Type I actions under the State Environmental Quality Review Act, applicants are highly encouraged to submit a Draft Environmental Impact Statement, subject to scoping by the Planning Board. The purpose of scoping is to ensure that the Environmental Impact Statement bears directly on the relevant issues and that the applicant is not put to unnecessary time and expense in discussing issues that are extraneous to the project.

B. An Agricultural Data Statement as defined in the Glossary.

C. The site plan application fee, as established by the Village Board of Trustees, and any required escrow deposit for review costs, as required by the Planning Board.

D. A Special Use Permit Application, if required for that land use. Where both a Special Use Permit and Site Plan Reviews are required, the Planning Board shall conduct both reviews simultaneously.

5-4.2 Application for area variance. Where a proposed site plan contains one (1) or more features that do not comply with the dimensional regulations of this law, an application may be made to the Zoning Board of Appeals for an area variance pursuant to Section 10-4 of this law without a decision or determination by the Code Enforcement Officer.

5-4.3 State Environmental Quality Review Act Procedures. Upon receipt of all application materials, the Planning Board shall initiate the New York State environmental quality review process by following the procedures described in Section 617.6 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

5-4.4 Agricultural Impacts. The Planning Board shall also require an Agricultural Data Statement, if one is otherwise required by State Law, and review it in accordance with the requirements of the Agriculture and Markets Law. The site plan review application shall also be referred to the Schoharie County Planning Commission if required by Section 239-m of the General Municipal Law and reviewed in accordance with the requirements of that law.

5-4.5 Public hearing and decision.

A. The Planning Board shall hold a public hearing on the site plan and advertise the hearing in a paper of general circulation at least 10 days before the hearing. The applicant shall also notify all landowners within 500' of a project about the hearing directly through a mailed notice. All costs of such notification shall be borne by the applicant. A public hearing shall be held within 62 days from the day an application is received.

B. Criteria for decisions on site plans shall be those listed above. In granting a site plan approval, the Planning Board may impose any conditions that it considers necessary to fulfil the purposes of this law and that are reasonably related to those purposes. These conditions may include increasing dimensional or area requirements, requiring the set-aside of open space land, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses to preserve environmental resources and minimize the burden on public services and facilities and requiring performance guarantees to insure the completion of the project in accordance with the conditions imposed.

C. The Planning Board shall make a decision on the site plan review application within sixty-two (62) days after a hearing, or after the day the application is received if no hearing is held. The time for the Board to render a decision can be extended by mutual consent of the applicant and the

Planning Board. A copy of the Planning Board's decision shall be filed in the Village Clerk's office, and mailed to the applicant. A resolution of either approval or approval with modifications or conditions shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with conditions of approval and the submission requirements stated herein. The Planning Board's decision must be filed within five (5) business days after the decision is rendered.

D. If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with these modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board may recommend further study of the site plan and re-submission to the Planning Board after it has been revised or redesigned.

E. Submittal for stamping and signing.

(1) Within six (6) months after receiving site plan approval, with or without modifications, the applicant shall submit three (3) copies of the site plan to the Planning Board for stamping and signing. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:

a. Record of application for and approval status of all necessary permits from Federal, State and county officials.

b. Detailed sizing and final material specification of all required improvements.

c. An estimated project construction schedule. If a performance guaranty is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.

d. Proof of payment of review costs.

(2) Upon stamping and signing the site plan, the Planning Board shall forward a copy of the approved site plan to the Code Enforcement Officer and the applicant. The Code Enforcement Officer may then issue a building permit or certificate of occupancy if the project conforms to all other applicable requirements.

5-4.6 Performance guaranties. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed, or a sufficient performance guaranty has been posted for improvements not yet completed. The performance guaranty shall be posted in accordance with the procedures specified in Section 7-725-a of the Village Law. The amount and sufficiency of such performance guaranty shall be determined by the Village Board of Trustees after consultation with the Planning Board, Code Enforcement Officer, and other local officials.

A. Types of Guarantees: As an alternative to the completion of required improvements, a performance guarantee shall be furnished by the applicant to the Village. Performance guarantees for site plan approval and Special Use Permits are contained in this section. (Performance guarantees applicable to subdivisions are set forth in the subdivision regulations.) Such guarantees may include one or a combination of the following:

(1) A bond executed by a surety company equal to the cost of such improvements. Any such bond shall require the approval of the Village Board of Trustees, in consultation with the Village

Attorney, as to form, sufficiency, manner of execution and surety.

(2) A certified check in a sufficient amount up to the cost of the improvements. The certified check shall be placed in an escrow account established by the Village Board of Trustees for this purpose.

(3) The deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in New York.

B. Completion of Improvements and Refund of Performance Guarantees: The Planning Board or the Village Board of Trustees, shall specify the time frame for completion of improvements. When a certified check or performance bond is issued, the Village and the applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation. Each cost as listed shall be repaid to the applicant(s) upon completion and approval after inspection of the improvement.

C. Forfeiture of Security and Completion of Improvements: In the event that any required improvements have not been installed as required above within the term of the performance guarantee, the Village may declare the applicant in default and collect the sum payable thereunder. Upon receipt of the proceeds of the performance guarantee, the Village shall install or cause to be installed the required improvements at a cost not to exceed the amount of such proceeds.

5-4.7 As-built plans and inspection of improvements. No certificate of occupancy shall be granted until the applicant has filed a set of as-built plans with the Code Enforcement Officer, indicating any deviations from the approved site plan. The Code Enforcement Officer shall be responsible for the inspection of site improvements, including coordination with the Village's consultants and other local officials and agencies, as may be appropriate, and shall grant a certificate of completion upon a finding that the project as built complies in all material respects with the site plan.

5-4.8 Site plan amendments. The site plan may be amended by filing an application with the Planning Board for a site plan amendment.

A. If the Planning Board finds that such proposed amendment is consistent with the terms of any applicable Special Use Permit approval and does not represent a substantial change from the approved site plan, it may grant the amendment without a hearing.

B. If the Planning Board determines that the proposed amendment is consistent with the terms of the applicable Special Use Permit approval, but is a substantial change from the approved site plan, it shall follow the procedures for major project site plan approval and hold a public hearing.

C. If the Planning Board determines that the proposed amendment is inconsistent with the terms of any Special Use Permit approval, it shall consider the application to be one for a Special Use Permit amendment and proceed pursuant to the requirements for amendments to Special Use Permits.

5-4.9 Expiration, revocation and enforcement.

A. A site plan approval shall expire if the applicant fails to obtain the necessary building permits or fails to comply with the conditions of the site plan approval within eighteen (18) months of its issuance, or if the Special Use Permit with which it is associated expires. The Planning Board may grant a one-time six-month extension.

- B. A site plan approval may be revoked by the Planning Board if the permittee violates the conditions of the site plan approval or engages in any construction or alteration not authorized by the site plan approval.
- C. Any violation of the conditions of a site plan approval shall be deemed a violation of this law and shall be subject to enforcement action as provided herein.

#### 5-5 Procedure for minor project site plan approval.

The procedure for a minor project site plan approval shall be the same as for major project site plan approval, except for the following:

5-5.1 A short-form Environmental Assessment Form will normally be required. If the application is classified as a Type I action under the State Environmental Quality Review Act, a long-form Environmental Assessment Form shall be required. The Planning Board, at its discretion, may require the long-form Environmental Assessment Form for any application, however.

5-5.2 A minor project application fee established by the Village Board of Trustees shall be paid, and an escrow deposit may be required to cover review costs at the discretion of the Planning Board.

5-5.3 The application requirements for major projects may be waived as deemed appropriate by the Planning Board provided the Planning Board provides an explanation for such waiver.

No public hearing shall be required for a minor project site plan. The Planning Board may hold a public hearing, however. The Planning Board shall give notice to the Schoharie County Planning Commission and to farm operators as required in by Section 305-a of the Agriculture and Markets Law and render a decision within sixty-two (62) days of its receipt of a complete site plan application or within 30 days of the filing of a Final Environmental Impact Statement, whichever is later.

## Chapter 6 Subdivision Regulations

### 6-1 General Rules

Whenever any subdivision of land is proposed to be made in the Village of Schoharie, and before any contract for the sale of, or any offer to sell such subdivided land, or any part thereof, is made, and before any building permit shall be granted, and before any construction shall be begun, the applicant or the duly authorized agent of the applicant shall apply in writing for approval of such proposed subdivision in accordance with the subdivision regulations. Absent such approval by the Planning Board, no parcel that was not existing on the effective date of these subdivision regulations shall be contracted for sale, sold, transferred or conveyed, or building permit issued for construction thereon. The Planning Board may waive requirements only for minor subdivisions.

### 6-2 Site Alteration or Improvement Prohibited

No alteration of the subdivision site shall occur after submittal of any materials for a subdivision application until the Planning Board has complied with the New York State Environmental Quality Review Act by filing a negative declaration or a findings statement based on a Final Environmental Impact Statement, or until the application is officially withdrawn. Site alteration shall include clearing and grubbing, grading, clear cutting, road or driveway construction, or the placement or construction of wells (except test wells), septic systems, utilities, foundations or structures, in preparation for a subdivision.

### 6-3 Pre-application Procedures for Approval of Subdivision

#### 6-3.1 Mandatory Pre-sketch Plan Conference - Minor and Major Subdivisions

- A. The Village believes that it is in the public interest as well as the interest of subdivision applicants for such applicants to present the subdivision concept to the Planning Board before there has been any significant expenditure of resources in planning and developing the subdivision. This is to ensure that the subdivision applicant has the input of the Planning Board at the earliest possible time.
- B. Procedure. At any regular meeting of the Planning Board, a subdivision applicant shall present a proposed subdivision plan. The subdivision plan shall be drawn on a tax map obtainable from the Schoharie County Real Property Tax Office. The scale of the drawing shall be 1 inch equals 100 feet in the Village.
- C. Upon review of the drawing, the Planning Board shall provide the applicant with generalized responses to the applicant's proposal and an introduction to the Flexible Conservation Subdivision concept. The applicant may then proceed to the sketch plan phase of subdivision review.
- D. The Planning Board shall provide a list of Sketch Plan requirements that must be included on the final plat. This will be determined and provided to the applicant at the end of the pre-sketch plan conference.

#### 6-3.2 Sketch Plan Requirements

- A. Submission of Sketch Plan. Prior to subdividing land, the landowner or agent shall submit to the

Planning Board, for purposes of classification and preliminary discussion, the original plus three (3) copies of a sketch plan of the proposed subdivision and all adjacent land owned by or under option to the owner. The submission shall be made at least 10 days prior to the regular meeting of the Planning Board, and shall comply with the requirements of this law. Any change in the sketch plan following submission and classification may require the re-submission of the sketch plan.

B. Sketch Plan Requirements. The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale that shall not be smaller than two hundred (200) feet to the inch. The entire tract shall be shown on one sheet, unless for reason of practical difficulty, the Planning Board approves otherwise. The Sketch Plan shall include the following information:

1. General Property Information:

- a. Tax map section, block and lot numbers.
- b. Full name of the owner(s) as listed on the deed and a copy of the deed.

2. Site Location

- a. All streets within 300 feet of property
- b. Distance to nearest existing street intersection
- c. Relationship of the property to be subdivided to the entire tract and contiguous land holdings.

3. Existing Conditions

- a. Existing structures and property setback dimensions
- b. Approximate location of existing water supply and wastewater disposal systems on the property and within 100 feet of the property line of the original parcel to be subdivided
- c. Statement of soil conditions, according to the Soil Survey of the Schoharie County, and slope conditions.
- d. All utilities including, but not limited to, telephone lines, electric lines, gas lines, water transmission lines, and cable TV lines with all appurtenances.
- e. Streets that are proposed, mapped or existing.
- f. Existing wooded areas, parks, playgrounds, or open space as well as rock outcrops and other important land features, within the portion of land to be subdivided and within 200 feet thereof.
- g. All apparent watercourses, marshes, streams, floodplains, and wetland areas (whether State or federally regulated), with applicable regulatory classifications, and all portions of the land within the subdivision subject to periodic flooding.
- h. All apparent existing historic structures listed on the National or State Register of Historic Places, archaeological sites, cemeteries and grave sites, or other features of local community importance.

C. Additional information to be submitted with the final subdivision plat application.

- (1) The original plus three (3) copies of the completed Application for Subdivision form.
- (2) The appropriate application fee, as set by Village resolution.
- (3) Completed Environmental Assessment Form or draft environmental impact statement. The Long Form Environmental Assessment Form shall normally be required for any major subdivision and for minor subdivisions if required by the Planning Board. A Draft Environmental Impact Statement can be submitted in lieu of either a long or short-form

Environmental Assessment Form. In some cases, it may be more expedient for the applicant to submit a Draft Environmental Impact Statement as part of the initial application materials in lieu of having the Planning Board proceed to the step of having to make the determination whether to require a Draft Environmental Impact Statement. The applicant is encouraged to consult the Planning Board as early as possible in the formulation of subdivision plans regarding the requirements for an Environmental Assessment Form or Draft Environmental Impact Statement. If a Draft Environmental Impact Statement is required it should be scoped to only cover subject matter relevant to the subdivision. State law contains specific requirements for scoping.

(4) The name and addresses of the owners of all adjacent property, as disclosed by the most recent municipal tax records. Adjacent property owners shall be considered those property owners within five hundred (500) feet of the boundary lines of the lands constituting the entire parcel proposed to be subdivided.

(5) Deed description and proof of ownership of the land to be subdivided or other legal authority.

(6) If the applicant is not the owner of the land to be subdivided, the applicant shall provide the Planning Board with a notarized statement from the owner authorizing the applicant to act for the owner as agent for the owner and to make the application for the subdivision.

(7) Any requirements of Section 6 (Requirements for all Subdivisions).

(8) The Planning Board may require more detailed information on site conditions or proposed project layout, or other certificates, affidavits, endorsements or agreements provided such information is reasonably necessary to evaluate the subdivision proposal.

(9) The development proposal including:

- a. Proposed layout of lots including lot dimensions and acreage
- b. Building envelopes for house(s) and structures
- c. Proposed use and number of each lot
- d. Proposed location of water supply and wastewater disposal systems. (All on-site waste disposal and water supply facilities shall be designed to meet the minimum specifications of the law. The Planning Board may require higher specifications depending on local conditions.)
- e. Proposed location of driveway(s)
- f. Any proposed parks or recreation areas

6-3.3 Discussion of Requirements and Classification. The applicant or agent shall attend the meeting of the Planning Board to discuss the requirements of these regulations for drainage, wastewater disposal, water supply, and lot design. The availability of existing services and other pertinent information such as additional approvals needed or referral to the Schoharie County Planning Commission shall also be discussed at this time. The Planning Board shall classify the proposed subdivision within sixty-two (62) days from the date of sketch plan submission as either a Lot Line Adjustment, Minor Subdivision or Major Subdivision. The Planning Board shall make a notation regarding classification directly on the Sketch Plan.

6.3.4 On-site Inspection. An on-site inspection by the Planning Board with the owner may be required to further evaluate the property and subdivision plan. The applicant shall then comply with the procedures outlined in these regulations for the appropriate category of subdivision.



6-3.5 Study of Sketch Plan. The Planning Board shall, within sixty-two (62) days after submission, determine whether the Sketch Plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

#### 6-3.6 Waiver Requirements for Minor Subdivisions

The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of minor subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

### 6-4 Lot Line Adjustment

6.4-1 Action on Lot Line Adjustment: Within sixty-two (62) days from the date of complete submission, the Planning Board shall by resolution make a finding that the project constitutes an exempt lot line adjustment or classify the sketch plan as either a Minor or Major subdivision. The Planning Board shall require a copy of the recorded deed showing combination of the lots or lot lines to ensure that no new parcel is created.

6-4.2 Record of Finding: If the Planning Board determines that the application constitutes a lot line adjustment, it shall make a written determination. One copy of the determination shall be provided to the applicant and one copy shall be filed with the Village Clerk. The Planning Board need take no further action unless the application has been classified as a Minor or Major subdivision.

### 6-5 Minor Subdivision Plats

#### 6-5.1 Approval of Minor Subdivision Plat

A. Application and Fee. Within six (6) months of the classification by the Planning Board of a proposed subdivision as a Minor Subdivision, the applicant shall submit a Minor Subdivision Plat. The Minor Subdivision Plat shall normally be equivalent to a Final Plat as defined in these regulations. The plat shall be accompanied by any additional documentation required by the Planning Board and the subdivision application fee. The fee shall be paid to the Clerk of the Village. Failure to submit the plat within six (6) months will cause the application to be considered withdrawn. Applications that have been withdrawn, may be reactivated only upon re-submission of the Sketch Plan to the Planning Board for reclassification, in addition to payment of the appropriate application fee. The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. The Planning Board shall have 45 days to determine the completeness of the application. (See definition of “Complete Application in Part V). If the Planning Board deems the application not complete, they shall detail the application deficiencies, in writing, to the applicant.

The applicant shall accompany the Minor Subdivision Plat with the Minor Subdivision application fee. In addition, the applicant will be responsible for any engineering or legal costs incurred by the Village with respect to the review of the application. All applicable costs must be paid before the Planning Board passes a resolution granting final approval, with or without modification, or disapproval of the Minor Subdivision Plat.

B. Number of Copies. Seven (7) copies of the Minor Subdivision Plat shall be filed with the Village Clerk at least ten (10) days prior to a regular monthly meeting of the Planning Board. A proposed submission that does not include all the required drawings, information, and documents shall not be considered complete, and may not be considered by the Planning Board until it is complete.

C. Applicant to Attend Planning Board Meeting. The applicant or the applicant's representative shall attend the meeting of the Planning Board to discuss the Minor Subdivision Plat.

D. When Officially Submitted. The official submittal or "receipt" date of the Minor Subdivision Plat is the date of the regular monthly meeting of the Planning Board after timely receipt of all required documents and application fees.

E. Start of Time Frames. A determination by the Planning Board that a complete application has been received initiates all required time frames and time lines herein.

F. Referral to County. The Planning Board shall submit the proposed subdivision plat application to the Schoharie County Planning Commission as soon as practicable and shall allow thirty (30) days for review and comment, if the subdivision is within five hundred feet from: the boundary of the Village, the boundary of any existing or proposed county or state park or other recreation area, the right-of-way of any existing or proposed county or state parkway, throughway, expressway, road or highway, the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, or the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law (except in the case of area variances).

#### 6-5.2 Action on Minor Subdivision Plat.

A. Coordination with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of State Environmental Quality Review Act. A Minor Subdivision Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of State Environmental Quality Review Act. The period for review of a Minor Subdivision shall begin upon filing of the negative declaration or notice of Draft Environmental Impact Statement completion.

#### B. Periods for Public Hearing and Decision

(1) Period to Hold Hearing When the Planning Board as the lead agency under State Environmental Quality Review Act.

- a. Public hearing. The period within which the Planning Board shall hold a public hearing on the Minor Subdivision Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to State Environmental Quality Review Act, as follows:
- b. (ii) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing shall be held within 62 days after receipt of the complete Minor Subdivision Plat; or
- c. If the Village, or both, have entered an agreement with the Schoharie County Planning Commission that certain proposed actions are of local, rather than inter-community or

county-wide interest, then that agreement shall govern as to whether and how an action is referred to the Schoharie County Planning Commission.

- d. (iv) If an environmental impact statement is required, the Planning Board shall hold a public hearing on the Draft Environmental Impact Statement jointly with the public hearing otherwise required by this law. The public hearing on the Minor Subdivision Plat and Draft Environmental Impact Statement shall be held within 62 days after the filing of the notice of completion of the Draft Environmental Impact Statement.

(2) Where the Planning Board is not the lead agency under State Environmental Quality Review Act.

- a. Public hearing. When possible, the Planning Board shall hold the public hearing jointly with the lead agency's hearing on the Draft Environmental Impact Statement. Otherwise, the hearing on the Minor Subdivision Plat shall be held within 62 days of receipt a complete subdivision plat.

(3) Decision. Within 62 days from the close of the public hearing, or within 30 days of the adoption of findings by the lead agency, whichever period is longer, the Planning Board shall conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the Minor Subdivision Plat. The period may be extended for up to 180 days by mutual agreement between the applicant and the Planning Board. If the Planning Board fails to take action on a Minor Subdivision Plat within the time frame established in these regulations, or mutually agreed upon extension, the plat shall be deemed approved. A certificate of the Village Clerk as to the failure to take action within the prescribed time shall be issued upon demand and shall be sufficient in lieu of written Planning Board endorsement of the plat.

(4) Conditional Approval, With or Without Modifications. Conditional approval requires that the owner satisfy the required conditions before signature of the Planning Board and filing with the County Clerk. If conditional approval is granted, the Planning Board shall empower the Chair or the Chair designee to sign the Minor Subdivision Plat upon completion of such conditions or modifications as may be stated in its resolution of conditional approval. Within five (5) days of the resolution granting conditional approval, the Minor Subdivision Plat shall be so certified by the Chair of the Planning Board, or the Chair's designee. A certified copy of the plat shall be filed in the office of the Planning Board, and another certified copy mailed to the applicant. The copy mailed to the applicant shall include a statement of such conditions, that, when completed, will authorize the signing of the Minor Subdivision Plat which has been conditionally approved. Conditional approval of a Minor Subdivision Plat shall expire one hundred-eighty (180) days after the date of the resolution granting such approval unless the Planning Board has certified the conditions as having been met within that time. The Planning Board may, however, extend by up to 180 days, the time within which conditionally approved Minor Subdivision Plat may be submitted for signature for an additional two periods of up to 90 days each.

(5) Application for area variance. Where a proposed subdivision contains one (1) or more features that do not comply with the dimensional regulations of this law, an application may be made to the Zoning Board of Appeals for an area variance pursuant to Section 10-4 of this law without a decision or determination by the Code Enforcement Officer.

B. Certification and Filing of Preliminary Plat. Within five business days of the adoption of a resolution granting approval of such plat, such plat shall be certified by the Clerk of the Planning

Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed in the Village Clerk's office. A copy of the resolution shall be mailed to the applicant.

C. Approval of other Agencies. Before filing the approved Minor Subdivision Plat with the County Clerk, the applicant must satisfy applicable permit or review requirements of other local, county, regional, state or federal agencies concerning the proposed subdivision.

6-5.3 Documents to be submitted for a Minor Subdivision Plat: Seven (7) copies of a Minor Subdivision Plat to no less a scale than fifty (50) feet to the inch showing the following:

A. Information to be Submitted

- All of the information required to be contained on the sketch plan.
- Standard title block, key map, North arrow and map scale.
- All monuments, iron pipes, and benchmarks accurately located and of a type approved by the Planning Board. These shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at the corners and angle points of all new lots that are proposed.
- The width and location of any existing streets or public ways. Street rights-of-way and widening of rights-of-way within the subdivision and within two hundred (200) feet of its boundaries and any culverts in the streets.
- All property reserved by the owner or dedicated to the public use and the conditions of such dedication.
- Subsurface data including date, location and graphic representation of findings for all test holes, location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions, and depth of ground water unless pits are dry at a depth of five (5) feet.
- All waste water disposal systems, storm drainage facilities, and water supply facilities.

The Planning Board shall determine the appropriate scale of the plat. Standards of accuracy shall be noted on the map and certified by a land surveyor registered in New York State or a professional engineer licensed in New York State.

B. The Minor Subdivision Plat shall contain the original signature and seal of a professional engineer or land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208, paragraph (n) of the Education Law. Certification shall be made on the Plat or attached thereto stating the date of the completion of the field survey and the name of the subdivision, if any.

C. All sheets shall be 30" x 42", 22" x 34", 17" x 22", or 8 ½ " x 14" in size. When more than one sheet is required, all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.

D. Additional information to be submitted. The Planning Board may also require the following information:

- Offer of dedication in a form approved by the Village Board of all land included in easements and parks and playground areas not specifically reserved by the owner. Approval of the Plat does not constitute acceptance of the offer of dedication.
- Copies of all applications for approval of the proposed water supply and wastewater disposal facilities. The applicant shall obtain required endorsements and approvals by the New York

- State Department of Health and the Department of Environmental Conservation, or both, depending on the State law requirements, before any building permit is issued.
- Protective covenants in form for recording, including covenants governing the maintenance of public spaces or reservations (that are not proposed for dedication).
  - Final design of bridges and culverts.
  - Drainage system plan, erosion and sediment control plan, or both.
  - A certificate of the County Treasurer, School Tax Collector, or of an abstract of title company or attorney stating that all taxes, tax liens or any special benefit assessments affecting the subject property have been paid.
  - The Planning Board may require the applicant to submit more detailed information and other certificates, affidavits, endorsements or agreements reasonably related to the application.

#### 6-5.4 Documents to be Submitted Following Approval

A. Map Required for Filing. The applicant shall present to the Planning Board for signature one original and 2 paper copies of a map that meet the legal filing requirements of Schoharie County when real property is subdivided under the Minor Subdivision provisions herein. The reproducible original and maps shall be submitted to the Planning Board within 62 days of approval or within 180 days of approval with modification. The map shall be in agreement with the Minor Subdivision Plat as approved by the Planning Board.

B. Deed Required for Filing. If required, a deed referring to, and in agreement with, the map required for filing shall be presented to the Planning Board within 62 days of approval, or within 180 days of approval with modification. Such deed shall contain any restrictions on the use of the land including, but not limited to, easements and covenants, which form part of the subdivision approval.

#### 6-6 Major Subdivision Plats

A. Purpose. Preliminary Plat approval is the most significant event in the subdivision approval process. This is when the important details of the subdivision are established. The application for Major Subdivision Preliminary Plat approval consists of the Preliminary Plat, the Village form application, the Environmental Assessment Form or Draft Environmental Impact Statement, and supporting documents requested by the Planning Board. Approval of the Major Subdivision Preliminary Plat does not constitute an approval of the Final Plat, nor should it be considered a valid basis for the construction of site improvements or alterations that depend upon its design characteristics. Planning Board shall have 45 days to determine the completeness of the application. If the Planning Board deems the application not complete, they shall detail the application deficiencies, in writing, to the applicant.

#### B. Approval of Preliminary Plat

Application and Fees. Within six (6) months of the Planning Board's classification of a proposed subdivision as a Major Subdivision, the applicant shall submit a Major Subdivision Preliminary Plat, accompanied by a completed application for approval by the Planning Board. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall be in the form described below. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of the Village Law of the State of New York, and with these regulations, except where a waiver is specifically authorized by the Planning Board. Failure to submit the complete Plat and application within the six-month time frame shall cause the Planning Board to consider the application withdrawn. The application may be reactivated only upon re-submission of the Sketch Plan to the

Planning Board for classification and payment of applicable fees. The project shall be considered under regulations in effect at the time of re-submission.

A fee as established by Village resolution, shall accompany the application and must be paid to the Village Clerk, before the application will be considered complete. In addition, the applicant will be responsible for any engineering or legal costs incurred by the Village with respect to the review of the application. All applicable costs must be paid before the Planning Board passes a resolution granting approval, with or without modification, or disapproval of the preliminary Major Subdivision Plat.

C. Revisions. When revisions of the proposed subdivision are required, the Major Subdivision Preliminary Plat shall be revised accordingly.

D. Copies. The complete application for approval of the Major Subdivision Preliminary Plat, with seven (7) copies of the Preliminary Plat, shall be filed with the Village Clerk, at least ten (10) days prior to a regular monthly meeting of the Planning Board. A submittal that does not include all the required drawings and documents listed, shall not be considered for such filing.

E. Applicant to Attend Planning Board Meeting. The applicant or the applicant's representative shall attend the meeting of the Planning Board to discuss the Preliminary Major Subdivision Plat.

F. When Officially Submitted. The official submittal or "receipt" date of the Preliminary Major Subdivision Plat shall be deemed to be the date of the first regular meeting of the Planning Board after the applicant's timely submission of the Preliminary Major Subdivision Plat application.

G. Referral to County. The Planning Board shall submit the proposed subdivision plat application to the Schoharie County Planning Commission as soon as practicable and shall allow thirty (30) days for review and comment, if the subdivision is within five hundred feet from: the boundary of the Village, the boundary of any existing or proposed county or state park or other recreation area, the right-of-way of any existing or proposed county or state parkway, throughway, expressway, road or highway, the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, or the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law (except in the case of area variances).

#### 6-6.1 Action on Preliminary Plat.

A. Coordination with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of State Environmental Quality Review Act. A Preliminary Subdivision Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the Draft Environmental Impact Statement has been filed in accordance with the provisions of State Environmental Quality Review Act. The time periods for review of a Preliminary Subdivision Plat shall begin upon filing of the negative declaration or notice that the Draft Environmental Impact Statement is complete.

#### B. Periods for Public Hearing and Decision

(1) Planning Board as lead agency under State Environmental Quality Review Act.

a.) Public hearing. The period within which the Planning Board shall hold a public hearing

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on the Preliminary Subdivision Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQR, as follows:

- If the Planning Board determines that the preparation of a Draft Environmental Impact Statement is not required, the public hearing shall be held within 62 days after receipt of the complete Preliminary Subdivision Plat; or
- If a Draft Environmental Impact Statement is required, the Planning Board shall jointly hold a public hearing on the Draft Environmental Impact Statement and the public hearing otherwise required by this law. The public hearing on the Major Subdivision Plat and Draft Environmental Impact Statement shall be held within 62 days after the filing of the notice that the Draft Environmental Impact Statement is complete.
- The applicant shall notify all landowners within 500' of a project about the public hearing for a preliminary plat directly through a mailed notice. All costs of such notification shall be borne by the applicant.

(2) Where the Planning Board Is Not the Lead agency under State Environmental Quality Review Act.

a. Public hearing. When possible, the Planning Board shall hold the public hearing jointly with the lead agency's hearing on the Draft Environmental Impact Statement. Otherwise, the hearing on the Preliminary Subdivision Plat shall be held within 62 days of receipt of a complete subdivision plat.

(3) Decision. Within 62 days from the close of the public hearing, or within 32 days after the adoption of findings by the lead agency, whichever period is longer, the Planning Board shall by resolution either approve, with or without modifications, or not approve the Preliminary Plat. The time within which the Planning Board must act on the Preliminary Plat may be extended by mutual consent of the applicant and the Planning Board. Failure to take action on a Preliminary Plat within the time prescribed shall be deemed approval of the Plat. The action of the Planning Board plus any required modifications shall be noted on two copies of the Preliminary Plat. One copy shall be returned to the applicant. Approval of a Preliminary Plat shall not constitute approval of the Final Subdivision Plat. No improvements shall be made to the parcel prior to the approval of the Final Plat. Prior to such approval, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

(4) If the Planning Board fails to take action on a Preliminary Subdivision Plat within the period established in these regulations, or mutually agreed upon extension, the plat shall be deemed approved. A certificate of the Village Clerk as to the failure to take action within the prescribed time shall be issued upon demand and shall be in lieu of written Planning Board endorsement of the plat.

(5) Certification and filing of preliminary plat. Within five business days of the adoption of a resolution granting approval of such plat, such plat shall be certified by the Clerk of the Planning Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed in the Village Clerk's office. A copy of the resolution shall be mailed to the applicant.

(6) Revocation of approval of plat. Within six months of the approval of the plat, the owner must submit the plat in final form. If the Final Plat is not submitted within six months, approval of the preliminary plat shall be deemed revoked. The Planning Board may, however, by

resolution grant an additional six months for submittal of the preliminary plat.

(7) Application for area variance. Where a proposed subdivision contains one (1) or more features that do not comply with the dimensional regulations of this law, an application may be made to the Zoning Board of Appeals for an area variance pursuant to Section 10-5 of this law without a decision or determination by the Code Enforcement Officer.

6-6.2 Documents to be submitted for a Preliminary Plat: Requirements for Preliminary Submission for a Major Subdivision. The applicant shall submit seven (7) copies of a Preliminary Plat to a scale not smaller than fifty (50) feet to the inch drawn accurately to scale with dimensions shown. The plat shall include:

- All the information required for a Major Subdivision Final Plat, (Section 6-6.10 of these regulations), shall be included on the Preliminary Plat except: monuments and iron pipes, and the certification of standards of accuracy.
- All contiguous land owned or under option by the owner shall be shown.
- Ground elevations and subsurface information including groundwater elevation shall be noted where appropriate. The Planning Board shall determine the required intervals.
- Highways or other major public or private improvements planned for future construction on or near the proposed subdivision shall be shown.
- All sheets shall be 30" x 42", 22"x 34", 17" x 22", or 8 ½ " x 14" in size. When more than one sheet is required, all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.

6-6.3 Additional Information. The Preliminary Plat shall include the following additional materials or information:

- Seven (7) copies of the completed Preliminary Plat Subdivision Application form.
- Completed Form of Agreement executed by the applicant to reimburse the Village for all professional fees reasonably incurred by the Village in conjunction with the application.
- Conditions of dedication of areas proposed to be dedicated to public use.
- Preliminary design of bridges and culverts.
- Grading plan, with sediment and erosion control plan.
- Drainage system plan.
- Draft of any protective covenants proposed by the applicant for the subdivision.
- Completed long-form Environmental Assessment or draft environmental impact statement.
- The applicant may be required to provide the Planning Board with more detailed information reasonably related to the application.

6-6.4 Approval of Final Plat

A. Purpose. The Major Subdivision Final Plat and the supporting documents for a proposed subdivision constitute the complete submission of the subdivision proposal. After approval by the Planning Board, this complete submission along with any required security as approved by the Village Board, becomes the basis for the construction of the subdivision. It shall also serve as the basis for inspection by the Planning Board, Code Enforcement Officer or engineer to determine compliance with the conditions of approval.

B. Application and Fee. Within six (6) months of the Planning Board approval of the Preliminary Plat, with or without modifications, the applicant shall submit a Major Subdivision Final Plat, accompanied by a completed application, for approval by the Planning Board. Such Final Plat shall



be clearly marked “Final Plat” and shall be in the form described in Section 6-6.10. The Final Plat shall, in all respects, comply with the requirements set forth in the provisions or the requirements of Section 7-730 of the Village Law, and with these regulations, except where a waiver may be specifically authorized by the Planning Board. Failure to submit the complete application within the six-month time frame shall cause the Planning Board to consider the application withdrawn. The application may be reactivated only upon re-submission of the Final Plat, with associated fees. An extension to the six-month time period may be applied for no less than one month prior to its expiration. No more than a single extension, not to exceed six months, may be granted by the Planning Board.

A fee as established by Village resolution, shall accompany the application and must be paid before the application will be considered complete. In addition, the applicant will be responsible for any engineering or legal costs incurred by the Village with respect to the review of the application. All applicable costs shall be paid before the Planning Board passes a resolution granting approval, with or without modifications, or disapproval of the Final Plat.

C. Partial Development. If desired by the applicant, the Final Plat may consist only of that portion of the approved Preliminary Plat that is proposed for recording and development. This is only if such portion conforms to all applicable requirements of these regulations and that the subdivision is being submitted for approval progressively in contiguous sections satisfactory to the Planning Board.

D. When Officially Submitted. The official submittal date of the Major Subdivision Final Plat is the date of the next regular monthly meeting of the Planning Board. The complete application for Final Plat Approval must be filed at least ten (10) days prior to the Planning Board meeting.

#### 6-6.5 Action on Final Plat.

A. Final Plats that are in substantial agreement with approved preliminary plats. When a Final Plat is submitted which the Planning Board deems to be in substantial agreement with the preliminary plat previously approved, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of the plat within 62 days of its receipt by the Clerk of the Planning Board.

B. Final Plats not in substantial agreement with approved preliminary plats. When a Final Plat is submitted that the Planning Board determines not to be in substantial agreement with the approved preliminary plat, the following shall apply:

(1) Planning Board as lead agency. The time within which the Planning Board shall hold a public hearing on the Final Plat shall be coordinated with any hearing the Planning Board may schedule pursuant to State Environmental Quality Review Act. If the Planning Board determines that an environmental impact statement is not required, the public hearing shall be held within 62 days of submittal of the Final Plat. Within 62 days of the close of the public hearing, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize signing of the Final Plat. The applicant shall notify all landowners within 500’ of a project about the hearing directly through a mailed notice. All costs of such notification shall be borne by the applicant.

(2) If the Planning Board determines that an environmental impact statement is required, the public hearing on the Final Plat and the Draft Environmental Impact Statement shall be held jointly within 62 days after the filing of the notice of completion of the Draft Environmental Impact Statement. The applicant shall also notify all landowners within 500’ of a project about

the hearing directly through a mailed notice. All costs of such notification shall be borne by the applicant. The Final Environmental Impact Statement shall be filed within 45 days of the close of the public hearing. Within 30 days of the filing of the Final Environmental Impact Statement, the Planning Board shall issue findings in the Final Environmental Impact Statement and by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize signing of the Final Plat.

(3) The Planning Board not as lead agency. When possible, the Planning Board shall hold the public hearing on the Final Plat jointly with the lead agency's hearing on the Draft Environmental Impact Statement. Otherwise, the hearing on the final subdivision plat shall be held within 62 days of receipt a complete Final Plat.

(4) Within 62 days from the close of the public hearing on the Final Plat, or within 30 days of the adoption of findings by the lead agency, whichever period is longer, the Planning Board shall conditionally approve, with or without modification, disapprove, or grant final approval and authorize signing of the Final Plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the record of the Planning Board. The Final Subdivision Plat shall not be signed for recording until the applicant has complied with documents to be submitted and required improvements or furnish a performance bond. The time for approval may be extended by mutual consent of the applicant and the Planning Board, for a period not to exceed 180 days.

C. Conditional approval. If conditional approval is granted, the Planning Board shall empower a duly authorized person or persons to sign the Plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five (5) business days of the resolution granting conditional approval, the Plat shall be so certified by the Clerk of the Planning Board as conditionally approved, a copy filed in the Village Clerk's office, and a certified copy mailed to the applicant which shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved Plat. Conditional approval of a Final Plat shall expire one hundred-eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved Final Plat may be submitted for signature for up to 180 days.

D. Default approval. Failure of the Planning Board to take action on a Final Plat within the time prescribed shall be deemed approval of the Final Plat. The certificate of the Village clerk as to the date of submission of the Final Plat, and the failure of the Planning Board to take action shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval.

6-6.6 Work Not to Start. No improvements shall be made to the parcel prior to the final approval of the Plat by the Planning Board. Exceptions may be granted by the Planning Board to satisfy conditions as set forth in a Conditional Approval.

6-6.7 Approval of Other Agencies. Before filing the approved Final Plat with the County Clerk, the applicant must satisfy any permit or review requirements of other local, county, regional, State or Federal agencies in effect and pertaining to the proposed subdivision. The Village may seek an order from a court of competent jurisdiction striking from the records of the County Clerk any plat where such permit or review requirements have not been satisfied.

6-6.8 Documents to be submitted for a Final Plat

A. Final Submission for a Major Subdivision. The applicant shall submit two (2) reproducible copies of the Final Plat on a reproducible original plus seven (7) prints to a scale not smaller than fifty (50) feet to the inch showing the following:

- All requirements of ~6.2.10 and 6.2.14
- Standard title block, key map, North arrow, and map scale.
- All existing and proposed property lines showing the relation of the Plat to abutting property and to the Street(s) on which the Plat abuts, building set back lines, and easement and right-of-way lines with dimensions.
- All monuments, iron pipes and bench marks, accurately located and of a type approved by the Planning Board. These shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and at the corners and angle points of all new lots which are proposed.
- Names of owners of all adjacent properties.
- Street rights-of-way and widening of rights-of way within the subdivision and within two hundred (200) feet of its boundaries, including name and right-of-way width and location; type, width and elevation of surfacing; any legally-established centerline elevations including those at intersections and other critical points; and culverts.
- The width and location of any existing streets or public ways within the area to be subdivided, and the width, location, grades, paving and street profiles of all streets or public ways proposed by the applicant. Street names should be shown.
- All property reserved by the owner or dedicated to the public use and the conditions of such dedication.
- The proposed use and number of each lot.
- Watercourses, marshes, wetlands (regulated or non-regulated), rock outcrops and other important land features, within the subdivision or within two hundred (200) feet of its boundaries.
- Any proposed park or playground.
- Subsurface data in accordance with applicable state and local requirements, including date, location and graphic representation of findings for all test holes, location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions, and depth of ground water unless pits are dry at a depth of five (5) feet.
- All waste water disposal systems, storm drainage facilities, and water supply facilities which shall be designed to meet the minimum specifications of these regulations, the Village and State authorities.
- All utility lines, including but not limited to telephone lines, electric lines, gas lines, water transmission lines and cable television lines.
- Contour lines with intervals of ten (10) feet or less as required by the Planning Board including elevations on existing roads. If natural contours are to be changed more than two (2) feet, a grading plan, with contour intervals of two (2) feet must be included.
- Standards of accuracy noted on the map and certified by a land surveyor registered in New York State or a professional engineer licensed in New York State.
- The Major Subdivision Final Plat shall contain the signature and seal of a professional engineer and of a land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208, paragraph (n) of the Education Law. All lettering shall be neat and legible.

B. All sheets shall be 30" x 42" 22"x 34", 17" x 22", or 8 ½ " x 14" in size. When more than one sheet is required all shall be the same size and an index sheet of the same size shall be provided

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showing the entire subdivision to an appropriate scale.

C. Additional Information. Additional materials to be submitted along with the Final Plat shall include (unless included in the Preliminary Major Subdivision Plat):

- Offer of dedication in a form approved by the Village Board of all land included in streets, walks, easements, and parks and playground areas not specifically reserved by the owner.
- Approval of the Plat does not constitute acceptance of the offer of dedication.
- Copies of applications for approval of the proposed water supply and waste water disposal facilities. The applicant shall obtain the endorsement and approval by the appropriate State or county agencies regarding water supply and waste water disposal facilities before official signing of the Final Plat.
- Deed description and proof of ownership of the land to be subdivided along with title report and guaranteed title.
- Protective covenants in a form for recording, including covenants governing the maintenance of public spaces or reservations that are not proposed for dedication.
- Final design of bridges and culverts.
- Final drainage plan.
- Final grading plan.
- A certificate of the County Treasurer, School Tax Collector, or of an abstract of title company or attorney stating that all taxes, tax liens or any special benefit assessments affecting the subject property have been paid.

D. Other Details. The Planning Board may require more detailed information and other certificates, affidavits, endorsements or agreements as part of the Final Submission for a Major Subdivision provided such information is reasonably related to the application.

### 6-6.9 Required Improvements

A. General Rule. Any applicant who proposes to develop a major subdivision shall comply with the regulations provided in this article regarding the installation of required improvements and security.

The standards and specifications for single family residential subdivisions are contained in these regulations. Additional improvements or improvements meeting more stringent standards and specifications may be required by the Planning Board for multifamily dwellings, commercial and industrial subdivisions.

B. Required Public Improvements. To the extent applicable, the Planning Board shall require the installation of the following improvements, except where waived:

- Streets and highways in accordance with applicable road standards.
- Street or road signs and buried utilities.
- Street or road trees.
- Vegetative screening.
- Water-supply facilities.
- Wastewater disposal facilities.
- Sidewalks, if the subdivision is in the Village of Schoharie.
- Streetlights, if the subdivision is in the Village of Schoharie.
- Footpaths or trails.
- Water facilities for firefighting purposes.

- Grading
- Storm drainage system.
- Erosion and sediment control.
- Monuments suitably placed and installed at bend points or corners of rights-of-way and pins on building lot corners.
- Parks, playgrounds or open space.

C. Standards for Installation. All improvements as required by the Planning Board shall be installed in accordance with standards, specifications, and procedures acceptable to the Village Board.

D. Modification of Design Improvements. The Planning Board may authorize minor modifications for required improvements provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The applicant must demonstrate that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements. The Planning Board shall issue any such authorization under this provision in writing with a copy of such authorization to be filed with the Village Clerk.

E. Inspection of Improvements. At least five (5) days prior to commencing construction of required improvements, the applicant shall pay to the Village Clerk any inspection fee required by the Village Board. The applicant shall notify the Village Board in writing of the time when he or she proposes to commence construction of such improvements so that the Village Board may arrange an inspection to assure that all Village specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities as required by these regulations.

F. Proper Installation of Improvements. The authorized Village representative shall inspect the improvements at least thirty days (30) before the expiration date of the performance bond. If any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he or she shall so report to the Village Board and the Planning Board. The Village Board or the Planning Board shall direct the applicant to correct the work to conform to the plans and specifications. If necessary, the Village Board shall take all steps necessary to preserve the Village's rights under the performance bond. The Planning Board shall not approve any plat if the applicant is in default on a previously approved plat for the same lands.

#### G. Public Franchise Utilities

(1) Service Connections. When public franchise utilities are to be installed, the applicant shall submit to the Planning Board written assurances from each public franchise utility company that such company will make the necessary service installations within a time limit and according to specifications satisfactory to the Planning Board.

(2) Easements or Other Releases. The Final Plat shall show statements by the owner granting all necessary easements or other releases where required for the installation of public franchise utilities.

H. Performance Guarantees: The Planning Board shall require security before it grants final approval of the subdivision plat for major subdivisions. This is to guarantee that the applicant shall faithfully cause the required public improvements to be constructed and completed within a reasonable time. The types of security are as follows:

(1) Security for Improvements. The applicant shall file with the Village Clerk a certified check or a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 7-730 of the Village Law and shall be satisfactory to the Village Board and the Village Attorney, as to form, sufficiency, manner of execution and surety. A period of one (1) year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed. At the request of the applicant, at intervals of 25 percent or greater completion, the project may be reviewed by an authorized Village official and the Planning Board. The security may be reduced by up to 75 percent of the value of the satisfactorily completed improvement, as determined by an authorized Village official. The form of the bond must be structured to preclude release without written consent of the Planning Board.

I. Maintenance Bonds. When required by the Village Board, the applicant shall file with the Village Board a maintenance bond in an amount based on a maximum of 25 percent of the performance bond estimate and that shall be adequate to assure the satisfactory condition of any initial public improvement for a period of one (1) year following its completion and acceptance. Such bond shall be satisfactory to the Village Attorney, as to form, manner of execution and surety, and in an amount, satisfactory to the Village Board. This provision is intended to be more stringent than State law.

J. General Liability Insurance. The applicant shall file with the Village Clerk a General Liability Insurance Policy, in an amount satisfactory to the Village Board, at the same time that he or she files the required security. The Village Attorney, shall approve the policy as to form. The policy shall be in force during the term of the required security and shall be extended in conformance with any extension of the required security.

#### 6-6.10 Filing of Approved Final Plat

A. Final Approval and Filing. Upon completion of the requirements in these regulations, and notation to that effect upon the Subdivision Plat, the Subdivision Plat shall be deemed to have final approval and shall be properly signed by the designated officer of the Planning Board. The applicant may then file the Final Plat in the Office of the County Clerk. Planning Board approval of a Final Plat shall not be deemed an acceptance by the Village of any street or other land shown as offered for dedication to public use.

B. Expiration of Approval. The approval of a Final Plat, or the certificate of the Village Clerk as to the failure of the Planning Board to act within the time required by law, shall expire within sixty-two days after the date of the Planning Board resolution authorizing the designated officer of the Planning Board to sign the drawings, or from the date the certificate is issued, unless the plat or a section thereof is filed in that period in the County Clerk's Office.

Expiration of an approval shall mean that any further action shall require payment of a new filing fee as well as Planning Board review of all previous findings. On and after such expiration of Plat approval, any formal offers of dedication submitted by the applicant shall be deemed to be invalid, void and of no effect.

C. Sunset Provision. (i) Required Improvements: If the required improvements for any approved Major Subdivision are not complete within three years of the date of final approval by the Planning Board, approval for the project, or any uncompleted portions or sections of the project, shall expire. (ii) Build-out of Lots: If in any approved subdivision, 50% or more of the approved lots remain

undeveloped in the subdivision or approved phase within 3 years of the date of final approval, approval for the uncompleted portions shall expire. Evidence of development shall be the installation of a driveway, well and septic system or installation of a permanent structure with a building footprint in excess of 300 square feet. (iii) Extension - An extension of up to two years may be granted by the Planning Board when requested in writing 30 days in advance of the expiration and accompanied by appropriate security as required by the Planning Board. (iv) Expiration - any further development of a project for which approval has expired will require application and approval under the subdivision regulations then in effect.

D. Filing in Sections. At the time the Planning Board grants Plat approval, it may permit the Plat to be divided into two or more sections subject to specific conditions established by the Planning Board to insure the orderly development of the Plat. The applicant may file a section of the approved Plat with the County Clerk. In these circumstances, Plat approval on the remaining sections of the Plat shall continue in effect for a period of three years from the filing date of the first section: When a plat is filed by section with the County Clerk, the applicant shall, within thirty days, file with the Village Clerk the entire approved Preliminary Plat. The applicant shall not be permitted to begin construction of buildings in any other section until such section has been filed in the Office of the County Clerk. The applicant shall also not be permitted to begin construction until the required improvements have been installed and approved in such section or a bond covering the cost of such improvements has been posted.

## 6-7 Special Provisions for Building Permits and Certificates of Occupancy.

6-7.1 Building Permits. Upon Planning Board approval of the Final Plat, and the filing of said Plat with the Clerk of the County, and upon the posting of a satisfactory performance bond or upon certification of completion or installation of all required improvements to the satisfaction of the Village Board, the applicant may be issued building permits for the construction of buildings in accordance with the approved Subdivision Plat.

6-7.2 Certificates of Occupancy. For any buildings constructed in the subdivision, certificates of occupancy may only be issued upon completion of all required public improvements to Village's standards and upon certification of such as provided in these regulations.

## 6-8 Requirements for All Subdivisions

The applicant for subdivision (minor and major) shall observe all general requirements for land subdivision as provided in these regulations and shall comply with the design and construction standards where applicable to subdivisions.

6-8.1 Density. All density requirements outlined in Chapter 2 shall be observed.

6-8.2 Wetlands and Floodplains. If any portion of the land within the subdivision is subject to seasonal or periodic inundation or to flood hazards caused by storm water, this portion of the land shall be depicted on any submissions required by these regulations. Wetland boundaries shall be depicted. A letter of approval or acceptance of the wetland delineation by such agencies may be required by the Planning Board. Where the existence of a flood hazard cannot reasonably be determined, the Planning Board may require the submission of a flood hazard study delineating the limits of the one hundred- (100) year flood plain.

6-8.3 Watercourses. Where a watercourse, either natural or constructed, traverses a subdivision, it shall be protected from encroachment by the establishment of a drainage easement. The path of the easement shall conform substantially to that of such watercourse. It shall be of sufficient width to convey the flow of a twenty-year flood, but not less than twenty (20) feet, or the bank-to-bank width, whichever is greater.

6-8.4 Drainage System Plan. A storm drainage system plan shall be part of a Major Subdivision Plat, and of a Minor Subdivision Plat if required by the Planning Board. The Planning Board shall require an adequate system of drainage structures. The purpose of such a system shall be to carry off and store or discharge storm water runoff and drainage water that originates within the property boundaries. No storm water runoff or natural drainage water shall be diverted to overload existing drainage systems, or create flooding or the need for additional drainage structures on the applicant's property or on other private properties or public lands. No drainage-way or culvert may be directed onto adjoining property to discharge stormwater in excess volume or concentration relative to that which occurred prior to development, without the applicant obtaining an easement for such from the property owner.

6-8.5 Re-platting of all or part of land covered by an existing plat filed with the County Clerk prior to the effective date of these regulations shall comply with these regulations and other applicable laws or regulations as currently in effect.

6-8.6 Lots: The lot arrangement shall be such that in constructing a building, there will be no foreseeable difficulties by reason of topography or other natural conditions.

6-8.7 Driveways and Streets: All requirements outlined in Chapter 3-5 shall be observed.

6-8.8 Water Facilities for Fire Safety: At the option of the Planning Board and upon recommendation of the Fire Company and the Board of Fire Commissioners, onsite or offsite water facilities for fire protection purposes may be required. Such installations shall comply with "Standard on Water Supplies for Suburban Rural Fire Fighting" or such standards established by the Fire Company and the Board of Fire Commissioners.

6-8.9 Natural & Historic Features: The Planning Board shall, to the maximum extent practicable, require that natural features enhancing residential development and the community be retained in their natural state. Features such as stone walls, large trees, springs, watercourses, rock outcrops, wetlands, historic spots, cemeteries, vistas, and similar irreplaceable assets shall be identified on the subdivision plat and shall remain undisturbed during site development and thereafter.

6-8.10 Vegetated Buffers: The Planning Board may require that vegetated buffers be established or retained between the property to be subdivided and adjoining areas.

6-8.11 Project Phasing: The Planning Board may require that Major subdivisions be phased in their build-out to minimize impacts to adjoining owners, to minimize environmental impacts associated with site disturbance, and to allow community services to absorb the growth.

6-8.12 Public Hearings: The Planning Board shall advertise public hearings on subdivision plats at least once in a newspaper of general circulation in the Village. The advertisement shall appear at least 10 days before such hearing, or 14 days before a hearing if held jointly with a hearing on a Draft Environmental Impact Statement. The applicant shall notify all adjacent land owners of the hearing by certified mail, return receipt requested, sent to their current address of record as indicated on the tax rolls. The notification shall be postmarked at least 7 days prior to the date of the hearing. Adjacent landowners shall be considered those property owners within 500' of the boundary lines of the lands constituting the



entire parcel to be subdivided. At the public hearing, the applicant shall present proof of such notification.

6-8.13 Authority to sign plats: The appropriate officers authorized to sign approved subdivision plats are the Chair, or in the Chair's absence, the Chair's designee.

6-8.14 Plat revisions: After approval has been given by the Planning Board and endorsed in writing on the plat, no changes, erasures, modification, or revisions shall be made in any Subdivision Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves in writing any such modifications. In the event that any Subdivision Plat is recorded without complying with these requirements, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Plat stricken from the Records of the County Clerk.

6-8.15 Failure to Submit or File Plat: The failure of an applicant to submit a Final Plat for signature within the required time period, or failure to file the signed plat with the County Clerk within the required time period shall cause the approval to expire and become null and void. If the applicant resubmits the subdivision plat for approval, the submitted plat shall conform to the regulations in effect at the time of resubmission.

## 6-9 Flexible Conservation Subdivisions

### 6-9.1 Site Planning Procedures for Conservation Subdivisions.

A. Process Overview. The following steps shall be followed sequentially and may be combined only at the discretion of the Planning Board:

(1) Pre-application discussion. A pre-application discussion is strongly encouraged between the applicant, site designer(s), and the Planning Board. The purpose of this informal meeting is to introduce the applicant and the site designer(s) to the Village's zoning and subdivision regulations and procedures, and to discuss the applicant's objectives. The Planning Board may designate a consultant experienced in the protection of natural features and greenway lands to meet with the applicant and to attend meetings required under this chapter.

(2) Required plans. Plans analyzing each site's existing features are required for all proposed conservation subdivisions. At a minimum, the existing features of the site analyzed shall include (a) a contour map; (b) the location of severely constraining elements such as steep slopes (over 20%) wetlands, watercourses, streams, floodplains, and all rights-of-ways and easements. This information may be available on maps located at the Village Hall; (c) soil boundaries as shown on soil maps located at the Village Hall or in the Schoharie County Soil Survey; (d) the location of significant features such as woodlands, treelines, open fields or meadows, scenic views into or out from the property, drainage ways, fences or stone walls, and existing structures and roads.

This existing features plan shall identify primary and secondary conservation areas (floodplains, wetlands and steep slopes, prime farmlands, etc. These conservation areas will comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed below. The existing features plan shall form the basis for the sketch plan which shall show the tentative location of houses, streets, lot lines, and open space lands in new subdivisions according to the four-step process described in below.

(3) On-site walkabout. After the existing features plan has been prepared, the Planning Board and the applicant are encouraged to walk the property to familiarize officials with the property's special features, and to provide them an informal opportunity to offer guidance.

(4) Sketch Plan. A sketch plan shall be submitted for all proposed conservation subdivisions. It is a preliminarily engineered sketch plan drawn to illustrate the conceptual layout for open space lands, house sites and street alignments, as determined from the four-step process described below.

(5) Four-step Process. When the sketch plan or preliminary plat is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed in determining the layout of their proposed streets, house lots, and open space lands.

(i) Designating Open Space. During the first step, all potential conservation areas are identified using the existing features plan. Guidance on which parts of the land to classify as conservation areas shall be based upon:

The open space locational criteria contained below,  
The evaluation criteria listed below,  
The Town and Village of Schoharie Comprehensive Plan,  
Information from published data or reports,  
On-site visits

(ii) Location of House Sites. During this second step, potential house sites are tentatively located. Tentative locations of house sites shall be prepared for the Sketch Plan and, later, proposed house sites on the preliminary plat. House sites should generally be located not closer than 50 feet of conservation areas, unless further distances are required as setbacks from wetlands by the Department of Environmental Conservation.

(iii) Street and Lot Layout. The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on the conservation areas.

(iv) Lot Lines. The fourth step is to draw in the lot lines. These are generally drawn midway between house locations. Lots may include rear flag lots that meet the Village's minimum standards for lots.

#### 6-9.2 Standards.

A. Setbacks. Appropriate minimum setbacks in a conservation subdivision shall depend upon the lot sizes, the type of road frontage and the character of the subdivision. Accordingly, setback and yard requirements shall be established by the Planning Board at the time of plat approval and shall be shown in a chart on the plat. In no case, shall the setback be less than 15 feet.

B. Minimum Percentage of Open Space in a Conservation Subdivision:

(1) A minimum of 50% of the total tract area.

(2) All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision by an appropriate designation on the approved plat, and, in addition through one of the following mechanisms:

(i) A conservation easement, in a form acceptable to the Village and recorded at the County Clerk's Office. Refer to the definition section of this law for the definition of conservation easement.

(ii) A declaration of covenants or deed restriction, in a form acceptable to the Village and recorded in the County Clerk's Office, where a conservation easement has been shown not to be practicable.

(3) The conservation easement, declaration of covenants or deed restriction shall restrict development of the open space and allow the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board, with the advice of the Village Attorney, shall approve the form and content of any easement, declaration or restriction. The filing of an approved easement, declaration or restriction shall be made a condition of final plat approval.

(4) The required open space may be used, without restriction, for underground drainage fields or for individual or community septic systems.

(5) Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. However, land within the rights-of-way of high-tension power lines shall not be included as comprising part of the minimum required open space.

C. Location of open space and lot layout. Other characteristics of qualifying open space are detailed below. Preserved open space may be included as a portion of one or more large lots under single ownership, or may be on a separate open space lot.

(1) The protected open space must have historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include view corridors along scenic roads, agricultural land, large areas of contiguous mature forest, ridgelines and hillsides visible from public areas, wetlands, water bodies, and stream corridors. High quality agricultural land, even if suitable for development, shall be considered land of conservation value.

(2) Undivided open space should be directly accessible or viewable to the largest practicable number of lots within a Conservation Subdivision. To achieve this, the majority of house lots should abut undivided open space to provide direct views and access. Where this is not feasible, view tunnels from each lot to the open space should be developed. Where the open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than 5 acres in area, nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as buffers to water bodies or watercourses, or trail links.

(3) The conservation easement shall prohibit residential, industrial, or commercial use of open space land except in connection with agriculture, forestry, and recreation. Access roads, local utility distribution lines, trails, temporary structures for outdoor recreation and agricultural structures shall be permitted on land devoted to open space provided they do not impair the conservation value of the open space land.

D. Lots

(1) The number of building lots or dwelling units permitted within a flexible conservation subdivision shall in no case exceed the number which could have been permitted, in the judgment of the Planning Board, if the land were subdivided in to lots conforming to all normally applicable requirements of this chapter and the land subdivision regulations unless a density bonus has been awarded. The maximum allowable number of lots shall be determined by figuring the number of approvable lots that could be created under conventional subdivisions as described in this law. The Planning Board shall also consider the Subdivision Regulations, the requirements of the Schoharie County Department of Health, the New York State Department of Transportation and Environmental Conservation and the limitations of soils, topography, wetlands and other environmental features. The Planning Board may disallow any roads or lots which, in its judgment, would not be buildable under applicable regulations. The number of building lots or dwelling units permitted in the conservation subdivision shall not exceed this number of lots.

(2) The plat showing a flexible conservation subdivision development may include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street and enclosed parking spaces, streets, driveways, and any other features required by the Planning Board.

(3) Within the framework of limitations set forth in this section of the law, the Planning Board shall establish on a case by case basis, the appropriate modifications of lots, bulk and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this law. Lots shall be arranged in a way that preserves open space as conservation value as described above.

(4) Flexible conservation subdivision lots need not conform to any specified minimum lot size, except as may be necessary to satisfy the requirements of the Schoharie County Health Department and any other applicable requirements of this law.

E. Evaluation Criteria. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation. Lot layout shall also be in such a manner to promote traditional residential streets and streetscapes and to facilitate connection to existing streets. The lot layout shall generally follow applicable concepts articulated in the *Rural and Hamlet Design Guidelines* and other references discussed and depicted in the Town and Village Comprehensive Plan. Such guidelines shall be adapted to conform to the requirements of this law. The Planning Board shall evaluate proposals to determine whether the proposed layout:

(1) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling or construction (except as may be approved by the Village, for essential infrastructure or active or passive recreational amenities).

(2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

(3) Dwellings should be sited on the least prime agricultural soils, or in locations at the edge of a field, as seen from existing roads if development is on open fields.

(4) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public

thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.

(5) Maintains or creates a buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs and ponds.

(6) Designs around existing hedgerows and treelines between fields or meadows and minimizes impacts on large woodlands greater than five acres. Highly erodible soils with slopes greater than 10% should be avoided.

(7) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.

(8) Designs around and preserves sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.

(9) Protects village streetscape character and improves public safety and pedestrian networks through use of sidewalks and street trees. Landscapes common areas and both sides of new streets with native species of shade trees, located every forty feet.

(10) Provides open space that is reasonably contiguous.

(11) Avoids siting new construction on prominent hilltops or ridges by taking advantage of lower topographic features.

(12) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

(13) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establishes buffer zones along any existing or future scenic corridor or rural roads with historic buildings, stone walls, hedgerows, or other such features.

(14) Landscapes common areas and both sides of new streets with native species of shade trees, located every forty feet.

F. Ownership of Open Space. Open space land may be held in any form of ownership that protects its conservation values such as where the open space is owned in common by a homeowner's association (HOA). Open space may also be dedicated to the Town, Village, County or State governments, transferred to a non-profit organization, held in private ownership. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.

(1) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed.

(2) The open space restrictions must be in perpetuity.

(3) If land is held in common ownership by a homeowner's association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands

by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.

(4) The Planning Board shall find that the HOA documents satisfy the conditions above.

(5) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners.

#### G. Maintenance Standards.

(1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues or special assessments.

(2) Failure to adequately maintain the undivided open space in reasonable condition is a violation of the zoning law. Upon appropriate authority or process, the Village may enter the premises for necessary maintenance, and the cost of such maintenance by the Village shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property.

H. Future Subdivisions. The Village of Schoharie has determined that piecemeal subdivision of large properties where a small number of individual lots are subdivided off to circumvent major subdivision regulations will have a detrimental impact on neighborhood character, preservation of open space and agricultural lands, and the ability to provide traditional streetscapes and/or pedestrian networks. Therefore, where four or more lots are subdivided from any parcel within a two-year period, the fourth lot shall be deemed a major subdivision.

#### 6-9.3 Conservation Subdivision Application Requirements

A. An applicant required to or desiring to use the standards set forth in this section shall mark all plans clearly that the plan is for a Conservation Subdivision development. The applicant shall also submit a written detailed statement outlining the nature of the dimensional requirements requested. Preserved open space land shall be clearly delineated and labeled on the final subdivision plat as to its use, ownership, management, method or preservation, and the rights, if any, of the owners of other lots in the subdivision to such land. The plat shall clearly show that the open space land is permanently reserved for agricultural or open space purposes, and any conservation easements or restrictive covenants to be filed to implement such restrictions.

B. In addition to compliance with the Conservation Subdivision requirements, such development is also subject to subdivision regulations and public hearing in accordance with the procedures otherwise applicable to conventional subdivision plats. Chapter 7 Building Permits and Certificates of Completion

#### 7-1 Introduction

The Code Enforcement Officer reviews applications for building permits, which are either approved, approved with modifications or denied. The Code Enforcement Officer also issues certificates of completion. The Code Enforcement Officer shall, consistent with the requirements of the New York State Uniform Fire Prevention and Building Code, maintain separate records for each building permit application and an index of such applications.

## 7-2 Requirement for Building Permits

A building permit issued by the Code Enforcement Officer is required before any structure is erected or moved, or any existing structure is enlarged or altered. Any person intending to engage in any construction requiring a building permit should meet with the Code Enforcement Officer as early as possible to determine which, if any, other approvals or permits may first have to be obtained.

7-2.1 Application for Building Permit: Applications for building permits shall initially be made to the Code Enforcement Officer, on a form jointly or separately prescribed by the Village, and available from the Office of the Village Clerk and the Code Enforcement Officer. The application form shall be accompanied by three (3) copies of a plot or sketch plan drawn to scale showing the location and dimensions of existing and proposed structures, driveways and roads, and relevant physical features such as, for example, wetlands, and slopes greater than ten percent (10%). One copy shall be provided to the Planning Board and, upon issuance of a building permit and payment of the required building permit fee, one copy shall be returned to the applicant.

## 7-3 Approval by Code Enforcement Officer:

No building permit application shall be processed unless the Code Enforcement Officer finds all the following:

7-3.1 All required reviews and actions have been performed and approvals obtained, including site plan review, special use approval, or variances, or the application does not require such reviews and approvals.

7-3.2 The proposal described in the application complies with the use, density, and area requirements of this law, the requirements of applicable overlay areas, and the terms and conditions of any approvals required under the Village of Schoharie Land Use Law.

7-3.3 All proposed structures will be constructed on land suitable for building purposes as defined in the glossary of this law.

7-3.4 The proposal meets any applicable requirements of the New York State Uniform Fire Prevention and Building Code.

Following receipt of a complete application for a building permit, the Code Enforcement Officer shall report building permit applications, where the anticipated cost of construction is two thousand five hundred (\$2,500.) or more, at the next regularly scheduled meeting of the Planning Board.

## 7-4 Approval by Code Enforcement Officer:

If the Code Enforcement Officer finds that the conditions described in Section 7-3 above have been met, he or she shall issue a building permit provided the following additional conditions are met:

7-4.1 All building plans conform to the New York State Uniform Fire Prevention and Building Code.

7-4.2. All sewage and water supply plans conform to the New York State Department of Health regulations, as implemented by the Schoharie County Department of Health, including other applicable regulations.

7-4.3. In the case of a project subject to site plan review or a major subdivision project, the following additional conditions must be satisfied:

- A. All roads, sidewalks, and curbs, as shown on an approved subdivision plat or site plan, have been installed, or security has been given to the Village to ensure their completion, and if they are to be dedicated to the Village, offered and accepted for dedication by the Village.
- B. All drainage easements, storm sewers, catch basins, and other drainage facilities, as shown on an approved subdivision plat or site plan, have been installed, or security has been given to the Village to ensure their completion, and if they are to be dedicated to the Village, offered accepted for dedication by the Village.
- C. All sanitary sewer lines, sewage disposal plants, water plants, wells, or other sources of water supply, as shown on an approved subdivision plat or site plan, have been installed or security has been given to the Village to ensure their completion. If they are to be dedicated to the Village, the Code Enforcement Officer must find that such improvements have been offered and accepted for dedication by the Village.
- D. All other improvements as required and shown on an approved subdivision plat or site plan, have been constructed and, certificates of completion, to the extent required, have been obtained or security has been given to the Village to ensure their completion.

#### 7-5 Denial of Permits

If the Code Enforcement Officer finds that the applicant's proposed development does not meet the requirements described above, the building permit application shall be promptly returned to the applicant with a letter stating the deficiencies in the application. The building permit shall be deemed denied. The applicant may submit a new or amended application correcting the deficiencies in the rejected application.

#### 7-6 Deadlines

The Code Enforcement Officer shall determine within seven (7) business days of receipt of an application for a building permit whether the application is complete. The date of receipt is the date that the application is filed in the Village Clerk's Office. If the application is incomplete, the Code Enforcement Officer shall notify the applicant that the application is incomplete and provide the applicant with a statement as to what additional information is required. The application shall be deemed complete if the Code Enforcement Officer fails to provide the applicant with a Notice of Incomplete Permit Application within such period. A building permit must be issued or denied within 15 days of the date that the permit application is complete. The aforesaid deadlines may be extended by mutual, written agreement between the Code Enforcement Officer and the applicant.

#### 7-7 Filing of Building Permits:

Copies of the building permit application and any permit shall become a public record and filed in the Village Clerk's Office. The Code Enforcement Officer shall also file copies of permits with the Village assessor.



#### 7-8 Posting:

Building permits shall be posted conspicuously on the premises that are the subject of the building permit whenever construction work is being performed. No person shall perform any site work or building construction of any kind unless the required building permit is so displayed.

#### 7-9 Revocation:

The Code Enforcement Officer shall forthwith revoke the building permit and issue a stop work order if it shall appear, at any time, that the application or accompanying plot plan is in any material respect false or misleading, that work is being done in violation of the Village of Schoharie Land Use Law or the New York State Uniform Fire Prevention and Building Code, or any approval issued thereunder, or in an unsafe or dangerous manner, or that the permit was issued in error and should not have been issued. Notice of the stop work order shall be made by certified mail, return receipt requested and by posting the stop work order on the premises or by personal service on the permit holder. The person holding the building permit shall thereupon surrender the building permit to the Code Enforcement Officer.

#### 7-10 Expiration of Permit:

A building permit shall expire one (1) year from the date of issuance. The Code Enforcement Officer may extend the permit for successive periods of up to one (1) year each up to a maximum of four (4) years upon written request by the applicant and with payment of the applicable fee and for good cause shown. Any such extension shall be filed in the Office of the Village Clerk and Village Assessor's Office.

#### 7-11 Certificate of Completion:

No structure hereafter erected or altered shall be used until the Code Enforcement Officer has issued a Certificate of Completion. The Certificate of Completion shall not be issued unless the Code Enforcement Officer finds that the structure authorized by the building permit has been fully completed in accordance with its requirements. A Certificate of Completion shall be issued within ten (10) business days of the day that the Code Enforcement Officer has certified the structure as complying with the building permit. Certificates shall be filed in the Office of the Village Clerk. Only upon issuance of a Certificate of Completion will an occupancy permit be issued.

## Chapter 8 Summary: Responsibilities, Duties and Powers of the Boards and Officers

The Village of Schoharie Land Use Law shall be administered and enforced as follows:

### 8-1 Administration and Enforcement

The administration provisions concern the procedures for obtaining site plan review, Special Use Permits, use and area variances and interpretations of the law.

The Village hereby creates a Planning Board consisting of five persons. The Planning Board is responsible for Site Plan Review, administering the subdivision regulations, and reviewing applications for Special Use Permits.

The Code Enforcement Officer issues building permits and serves as the chief enforcement officer for both this law and the New York State Uniform Fire Prevention and Building Code.

The Zoning Board of Appeals is responsible for reviewing use and area variance applications and requests for interpretations of this law. A Zoning Board of Appeals consisting of five persons, including the chair is hereby appointed to carry out these functions.

Enforcement is the responsibility of the Village Board of Trustees and the Code Enforcement Officer. The Code Enforcement Officer also enforces the New York State Uniform Fire Prevention and Building Code. The Code Enforcement Officer also administers building permits and issues certificates of completion. The Code Enforcement Officer cannot issue a building permit or certificate of completion for a structure or land use that violates any provision of this law or permit or approval issued by the any board of the Village consistent with state and local law. The Code Enforcement Officer is authorized to serve appearance tickets and proceed with Justice Court actions, issue notices of violation, and authorize actions in any court of competent jurisdiction to enforce this law. The Village Board of Trustees has all the powers of the Code Enforcement Officer with respect to the commencement of legal proceedings either in Justice Court or in any court of competent jurisdiction.

All Village records related to the administration and enforcement of this law shall be filed in the office of the Village Clerk. The Village may appoint one or more deputies with responsibility for the records of the Planning Board and the Zoning Board of Appeals.

### 8-2 Responsibilities of the Village Board of Trustees.

The Village Board of Trustees are responsible for:

8-2.1 Adoption of the Village of Schoharie Land Use Law, and all amendments to it.

8-2.2 Instituting or authorizing legal action to enforce the requirements of the Land Use Law within their political boundaries. The Code Enforcement Officer also has this power.

8-2.3 Appointment and removal from office of members of the Planning Board and Zoning Board of Appeals, appointment of the Code Enforcement Officer, and such other boards and officers as the Village Board of Trustees may constitute from time to time to implement this law and the Comprehensive Plan.

8-2.4 All other functions given to it by State law and not expressly delegated to another board or officer.

### 8-3 Responsibilities of the Code Enforcement Officer.

The Code Enforcement Officer is responsible for:

8-3.1 Enforcement of the Village of Schoharie Land Use Law. The Code Enforcement Officer is hereby authorized to issue appearance tickets and prosecute such tickets in the Justice Court, issue notices of violation, and commence an action in the name of the Village in any court of competent jurisdiction to enforce the provisions of this law.

8-3.2 In carrying out the foregoing duties the Code Enforcement Officer shall attend regular meetings of the Planning Board, the Village Board of Trustees for the purpose of reporting on the status of compliance and enforcement. On or before the end of each calendar year, the Code Enforcement Officer shall submit an annual report to the Village Board of Trustees setting forth the number and status of reported and prosecuted violations as well as the number of issued building permits and certificates of completion.

8-3.3 The Code Enforcement Officer is also responsible for the processing of all applications for building permits or other approvals required by the Land Use Law; granting and denying building permits and certificates of occupancy or completion; and administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

### 8-4 Appeals from Decisions of the Code Enforcement Officer.

Decisions of the Code Enforcement Officer may be appealed by any person to the Zoning Board of Appeals within 60 days from the date the decision or order appealed from is filed in the Village Clerk's Office provided the subject of the appeal is within the jurisdiction of the Zoning Board of Appeals. All decisions of the Code Enforcement Officer shall be filed in the Village Clerk's Office. Each decision filed in the Village Clerk's Office shall bear a date stamp indicating the date of filing.

### 8-5 Responsibilities of the Clerks of the Planning Board and the Zoning Board of Appeals:

The clerks or clerk of the Planning Board and Zoning Board of Appeals shall be responsible for maintaining an accurate record or minutes of each meeting of the Planning Board and Zoning Board of Appeals. The Clerks shall maintain separate files for each of the boards and officers and an index as to the documents contained in each file. If documents are duplicated in one or more separate files, the Clerks may substitute a filing with a cross index as to the file where the document is located. The Clerks shall also maintain a cross index by tax map parcel, landowner and name of project for all applications, permits and approvals. To the extent practicable, the Clerk or Clerks shall maintain computerized records with searchable databases of planning and zoning records.

## Chapter 9 The Planning Board, Organization, Functions, Powers, Duties, and Procedures

### 9-1 Appointment.

The Village Board of Trustees shall appoint a Planning Board consisting of five (5) members and provide for such expenses as may be necessary and proper. The Village Board of Trustees shall appoint and designate the Chair. In the absence of a Chair, the Planning Board may designate a member to serve as acting Chair. A member of the Planning Board shall not at the same time be a member of the Village Board of Trustees or of the Zoning Board of Appeals. The Village Board of Trustees shall each have the power to remove any member appointed by such board for cause and after public hearing. The Chair may only be removed from office pursuant to this section by action of the Village Board of Trustees. The Village Board of Trustees shall provide for reasonable compensation for a clerk and for such other expenses as may be necessary and proper.

The Office of the Village Clerk may serve as the Office of the Clerk of the Planning Board. Additionally, the Village Clerk may appoint a deputy to serve as the Clerk of the Planning Board.

### 9-2 Powers of the Planning Board

The responsibilities of the Planning Board are as follows:

- Reviewing subdivision applications;
- Reviewing site plans;
- Reviewing applications for Special Use Permits;
- Preparation of changes to the Comprehensive Land Use Plan (unless the Village Board creates a separate committee for this purpose) and review of proposed amendments to this law; and
- Any other matter that the Village Board of Trustees shall by amendment to this law decide to vest as responsibilities of the Planning Board.

In carrying out these functions, the Planning Board shall have all the powers described in: Section 7-725-a of the Village Law related to site plan review; Section 7-725-b of the Village Law related to approval of Special Use Permits; and Sections 7-728 and 7-730 of the Village Law related to review of subdivision plats.

### 9-3 Terms

Terms of office for members of the Planning Board shall be for four (4) years, except that the first Chair of the Planning Board shall be appointed for an initial term of one year and each of the members appointed by the Village Board of Trustees respectively shall be appointed for an initial term of two (2), three (3) years, and four (4) years respectively. Thereafter, the Chair and each of the members shall be appointed for a period of five (5) additional years. If a vacancy shall occur otherwise than by expiration of term, the Village Mayor, shall appoint the new member for the remainder of the term.

### 9-4 Training and Continuing Education

Every member of the Planning Board shall annually attend one or more training or continuing education

course related to the work of the Planning Board. The Village Board of Trustees shall pay the reasonable expense of such training or continuing education.

### 9-5 Appointment and Removal of Members

Except as otherwise provided herein, Section 7-718 of the Village Law shall govern the appointment and removal of Planning Board members.

### 9-6 Conduct of Business

The Planning Board may employ such clerical or other staff or consulting assistance as may be necessary for the conduct of its business, if it shall not incur expenses beyond the amount of appropriations made available for such purposes or covered by an escrow account. The Planning Board may also engage engineers, planners, architects and other consulting services at the expense of the applicant for site plan review, subdivision approval or a Special Use Permit upon agreement with the applicant. This agreement shall outline the necessity, provisions of reasonableness and certainty of charges.

All meetings of the Planning Board shall be held at the call of the Chair and at such other times as such board may determine. The concurring vote of a majority of all members shall be necessary to take action on any matter before it. Meetings shall be open to the public as provided in Article Seven of the Public Officers Law of the State of New York (Open Meetings Law). The Board shall keep minutes of its proceedings. The minutes shall show the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Planning Board shall also keep records of its examinations and other official actions, which shall also be filed in the Office of the Village clerk.

The Planning Board may adopt forms and by-laws for the conduct of its meeting so long as such by-laws are consistent with this law. Such forms and by-laws shall be filed in the Office of the Village Clerk and made available to the public.

## Chapter 10 The Zoning Board of Appeals, Organization, Functions, Powers, Duties, Procedures

### 10-1 Appointment

10-1.1 Appointment. The Village Board of Trustees shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chair and provide for such expenses as may be necessary and proper. In the absence of a Chair, the Zoning Board of Appeals may designate a member to serve as acting Chair. A member of the Board of Appeals shall not at the same time be a member of the Village Board of Trustees or of the Planning Board. The Village Board of Trustees shall each have the power to remove any member appointed by such board for cause and after public hearing. The Chairperson may only be removed from office pursuant to this section by action of the Village Board of Trustees.

10-1.2 Terms. Members shall serve terms of three years. Such terms shall expire at the end of the calendar year. Any current members with terms that do not expire at the end of a calendar year shall serve until the end of the calendar year in which their terms are due to expire.

#### 10-1.3 Training Continuing Education.

Every member of the Zoning Board of Appeals shall annually attend one or more training or continuing education course related to the work of the Zoning Board of Appeals. The Village Board of Trustees shall pay the reasonable expense of such training or continuing education.

#### 10-1.4 Vacancies.

If a vacancy occurs other than by the expiration of a term, it shall be filled by the Village Board of Trustees, for the period of the unexpired term.

#### 10-1.5 Appointment and Removal of Members.

Except as otherwise provided herein, Section 7-712 of the Village Law shall govern the appointment and removal of Zoning Board of Appeals members.

### 10-2 Conduct of Business

10-2.1 The Office of the Village Clerk may serve as the Office of the Clerk of the Zoning Board of Appeals. Files relating to actions in the Village shall be filed in the Village Clerk's office and files relating to actions in the Village shall be filed in the Village Clerk's office. Bylaws and other generic documents shall be filed in both offices. Additionally, the Village Clerk may appoint a deputy to serve as the Clerk of the Zoning Board of Appeals.

10-2.2 The Zoning Board of Appeals may employ such additional clerical or other staff as may be necessary, if it shall not incur expenses beyond the amount of appropriations made available by the Village Board of Trustees for such purposes. As specifically provided herein, the Zoning Board may also engage engineers, planners, architects and other consulting services at the expense of the applicant as needed upon agreement with the applicant. This agreement shall outline the necessity, provisions of reasonableness and certainty of charges.

10-2.3 The Zoning Board of Appeals shall have the power to adopt by-laws, and forms to discharge its

responsibilities under this Law.

10-2.4 Subject to the Open Meetings Law of the State of New York, all meetings of the Zoning Board of Appeals shall be held at the call of the Chair and at such other times as the Board may determine. The Chair may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The concurring vote of a majority of all members shall be necessary to take action on any matter before it.

10-2.5 The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every decision. If a member is absent or fails to vote, the minutes shall so indicate. Every rule and regulation, every amendment or repeal thereof, and every order, requirement, decision, interpretation, or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Village Clerk and shall be a public record.

### 10-3 Powers

The Zoning Board of Appeals shall perform all the duties and powers prescribed by State laws and this law in connection with appeals to review any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. These duties and powers include the power to grant, grant with conditions, or deny use and area variances and to render interpretations as to the meaning of terms or provisions of the Village of Schoharie Land Use Law. An appeal to the Zoning Board of Appeals may also be taken by any person aggrieved by such order, requirement, decision, interpretation or determination or by any officer, department, board, or bureau of the Village.

### 10-4 Appeals of Orders, Requirements, Decisions, Interpretations, or Determinations

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed from, 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 law. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose order, requirement, decision, interpretation, or determination the appeal is taken.

### 10-5 Variances

#### 10-5.1 General Rules

A. Authorization for Zoning Board of Appeals to Grant Variances: In accordance with Section 7-712-b of the Village Law of the State of New York, the Zoning Board of Appeals shall have the power, upon appeal from a determination by the Code Enforcement Officer or by referral from the Planning Board and after public notice and hearing, to vary or modify the application of any of the provisions of this law relating to the use, construction, or alteration of structures or the use of land, so that the spirit of this law is observed, public safety and welfare secured, and substantial justice done. The specific standards for the grant of use and area variances are set forth below. The definitions of use and area variances are stated in the glossary of this law.

B. General Application Requirements for Variances: All applications for variances shall be accompanied by three (3) copies of a plot plan, drawn to scale with accurate dimensions, showing the location of existing and proposed structures on the lot. An application for a use variance may require submission of an Agricultural Data Statement. The Zoning Board of Appeals may also

request submission of a sketch plan showing the proposed location of buildings and other improvements and natural features.

C. Termination or Lapse of Variance: Any variance that is not exercised within one (1) year of the date it is issued shall lapse without further hearing by the Zoning Board of Appeals.

#### 10-5.2 Use Variances

A. The Zoning Board of Appeals, on appeal from a decision or determination of the Code Enforcement Officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed by this law.

B. No use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the land use area 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 shall consider any Agricultural Data Statement and whether the variance would have an undue adverse impact on the farm operations identified by the Agricultural Data Statement.

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

#### 10-5.3 Area Variances

A. The Zoning Board of Appeals shall have the power, upon an appeal from a determination of the Code Enforcement Officer that the applicant's proposal cannot be approved by reason of its failure to meet the dimensional or area regulations of this law, to grant area variances from the area or dimensional requirements of this law

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 the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making this determination the Board shall also consider:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the 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 land use area or overlay area; and
- (5) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance.

C. The Zoning Board of Appeals, in granting of area variances, shall grant the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

D. Imposition of Conditions: The Zoning Board of Appeals shall, in granting area variances, impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or community.

#### 10-5.4 Procedure for Appeals

A. Meetings, Minutes, Records: Meetings of the Zoning Board of Appeals shall be open to the public as required in Article Seven of the Public Officers Law of the State of New York. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

B. Filing Requirements: Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the Village Clerk's Office within ten (10) business days and shall be a public record.

C. Hearing Appeals: The Zoning Board of Appeals' jurisdiction shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. 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. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Village.

D. Time of Appeal: Such appeal shall be taken within sixty days after the filing in the Village Clerk's office of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer. The appeal shall be taken by filing with the Code Enforcement Officer and with the Village Clerk a notice of appeal, specifying the grounds thereof and the relief sought. The Code Enforcement Officer shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

E. Stay Upon Appeal: An appeal shall stop all proceedings relating to the action appealed from, unless the Code Enforcement Officer certifies to the Zoning Board of Appeals 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 that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of competent jurisdiction. The application for a stay shall be on notice to the Code Enforcement Officer and with due cause shown.

F. Hearing on Appeal: The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The applicant

shall also notify all landowners within 500' of a project about the hearing directly through a mailed notice. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

G. Time of Decision: The Zoning Board of Appeals shall decide the appeal within sixty-two days after the conduct of said 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 board.

H. Filing of Decision and Notice: The decision or draft minutes of the Zoning Board of Appeals on the appeal shall be filed in the Office of Village clerk within ten (10) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. The minutes, as approved by the Zoning Board of Appeals, shall be filed in the Village Clerk's Office within ten (10) business days of the meeting at which the minutes were approved.

I. Notice to Park Commission and County Planning Board or Agency or Regional Planning Council.

At least five days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred feet of the property affected by such appeal; and to the county Planning Board or agency or regional planning council, as required by Section two hundred thirty-nine-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law.

J. Compliance with State Environmental Quality Review Act: The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act. The following actions of the Zoning Board of Appeals do not require review under the State Environmental Quality Review Act: Granting of individual setback and lot line variances and granting of an area variance(s) for a single-family and a two-family dwelling.

K. Rehearing: A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board 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 board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

## Chapter 11 Nonconforming: Uses, Structures, and Lots

### 11-1 Continuation of Nonconforming Uses and Structures

Any lawful structure or use existing at the time of enactment or amendment of the Village of Schoharie Land Use Law which becomes nonconforming as a result of such enactment or amendment will be allowed to continue.

### 11-2 Abandonment and Discontinuance of Nonconforming Uses and Structures

It is the intent of the Village of Schoharie to encourage adaptive reuse of existing buildings. Neither the lot layout nor the existing structure that becomes nonconforming as a result of enactment or amendment of this law are expected to be altered. A nonconforming use of land or structures that is discontinued for a period of twelve (12) consecutive months or abandoned shall not be reestablished, and any subsequent use of the same property shall conform to the signage, lighting, and where appropriate, landscaping and sidewalk requirements of the Village of Schoharie Land Use Law. Abandonment, as distinguished from discontinuance, requires evidence of an intent to relinquish the use.

### 11-3 Alteration and Restoration

11-3.1 A nonconforming use or structure shall not be extended, enlarged, or structurally altered. A nonconforming structure or use may be rebuilt in the event of total or partial destruction thereof, to occupy the same or a lesser amount of the building footprint. It may not exceed the height of the totally or partially destroyed structure. The rebuilt nonconforming use must meet the existing requirements for sewage disposal, water supply and the Uniform Fire Prevention and Building Code, and all other requirements of this law. Notwithstanding the foregoing, a nonconforming use or structure may be repaired or restored to a safe condition.

### 11-4 Construction Started Prior to the Village of Schoharie Land Use Law and Special Permit Approvals Granted Prior to this Law

Any structure for which a building permit was obtained (along with any other required approvals and permits) and for which construction was lawfully and substantially commenced prior to the effective date of the Village of Schoharie Land Use Law, or of any amendment thereto, may be completed and used in accordance with the approved plans and specifications for such structure. Any structure for which construction has not begun pursuant to approved plans shall be subject to the provisions of this law and any amendments thereto, even if all approvals required by this law have been granted.

### 11-5 When Approved with Prior Environmental Impact Statement

Notwithstanding the foregoing, any Special Use Permit that was the subject of a Final Environmental Impact Statement, prior to the effective date of this local law, shall be permitted to be constructed in accordance with the Special Use Permit and Final Environmental Impact Statement and Findings. Jurisdiction over such Special Use Permit and all subsequent approvals is transferred to the Planning Board.

### 11-6 Existing Nonconforming Lots

Except as provided in Section 11-7 below, any lot of record lawfully created prior to the effective date of the Village of Schoharie Land Use Law that does not comply with the area, density, or dimensional regulations shall be deemed to comply with such requirements (and no variance shall be required for its development) if lot can comply with existing requirements for on-site sewerage disposal and water supply and does not adjoin other lots in the same ownership. Where the lot adjoins other lots in the same ownership the nonconforming lot(s) shall be deemed to have merged with the adjoining lot in the same ownership on the effective date of this law.

### 11-7 Exemption of Lots Shown on Approved Subdivision Plats

In accordance with Section 7-709 of the Village Law, any lot proposed for residential use in a subdivision whose plat delineates one or more new roads or highways, which is shown in a subdivision plat that has been properly approved by the Planning Board and filed in the Office of the County Clerk prior to the effective date of this Local Law, and which violates the minimum area and dimensional requirements of this Local Law, shall be deemed to comply with such minimum requirements for three (3) years after the filing of the subdivision plat.

## Chapter 12. Enforcement

### 12-1 Legislative Intent

The effectiveness of laws is chiefly dependent on voluntary compliance. Enforcement must happen where voluntary compliance does not occur. When laws are not enforced, the public's faith in the law is undermined. Failure to enforce the law also results in unequal application of the law. Therefore, this Chapter provides for both criminal and civil penalties and other remedies where the law has been violated. No remedy provided herein is exclusive. Violations of the New York State Uniform Fire Prevention and Building Code are enforced and remedied pursuant to separate local laws adopted to administer and enforce the New York State Uniform Fire Prevention and Building Code.

### 12-2 Civil Penalties and Fines

A violation of any of the provisions of the Village of Schoharie Land Use Law shall be enforced by either:

#### 12-2.1 Penalties and Fines

A violation of any of the provisions of the Land Use Law of the Village of Schoharie shall be enforced by either:

##### A. Fines

- (1) A fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for a period not to exceed fifteen (15) days, or by both fine and imprisonment;
- (2) For a conviction of a second offense, provided the first and second violations occurred within a period of five (5) years, a fine not less than two hundred fifty dollars (\$250) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed fifteen (15) days, or by both fine and imprisonment;
- (3) For a conviction for a third or subsequent offense, all of which occurred within a period of (5) years, a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed fifteen (15) days, or by both fine and imprisonment; or

##### B. Civil Penalties

- (1) A civil penalty not exceeding two hundred dollars (\$250);
- (2) For a second violation, provided both the first and second violations occurred within a period of five (5) years, a civil penalty of not less than three hundred and fifty dollars (\$350) nor more than seven hundred dollars (\$700); and
- (3) For a third violation, all of which occurred within a period of five (5) years, a civil penalty of not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000).

12-2.3 Cumulative Fines and Civil Penalties. Each week's continued violation shall constitute a separate additional violation, for which separate and additional fines and punishment or civil penalties may be imposed and recovered.

12-2.4 Small Claims Action to Collect Penalty. In the event the penalty sought is within the monetary jurisdiction of the Justice Court, as established in Article 18 of the Uniform Justice Court Act, such action to recover such penalty may be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

## 12-3 Inspection

The Code Enforcement Officer is authorized to enter, inspect, and examine any building or premises with the consent of the landowner. If the landowner, tenant, or occupant does not provide such consent and the Code Enforcement Officer has probable cause to believe that a violation of this law is occurring, he is authorized to obtain an administrative search warrant to conduct such entry, inspection or examination.

## 12-4 Procedure for Investigation of Violations

12-4-1 Reporting and Investigation. Any person may report in writing a suspected violation to the Code Enforcement Officer. The Code Enforcement Officer shall record all suspected violations on a form prescribed by the Village, or both. Within a reasonable time thereafter the Code Enforcement Officer shall investigate and determine whether a violation exists. The investigation shall include a visit to the site of the alleged violation. To the maximum extent practicable the Code Enforcement Officer shall document the violation through photographs and other proof. The Code Enforcement Officer may also determine that a violation exists based on his or her own investigation and without a prior complaint. In that event the Code Enforcement Officer shall record and investigate the suspected violation as provided above.

12-4.2 Notice of Violation. Within a reasonable time of determining whether a violation exists the Code Enforcement Officer shall serve the landowner and any other responsible party, or both, with a "Notice of and Demand to Remedy Violation." The Notice shall be served on the landowner and any other responsible party by certified mail return receipt requested or by personal delivery. If service is not possible under either method, the Code Enforcement Officer may use the best possible alternative method of service provided for under the Civil Practice Law and Rules of the State of New York that insures notice to the alleged violator(s). The Notice shall set forth the alleged violation in reasonable detail and cite to the applicable part of the Land Use Law. The Notice shall also state the corrective action sought and the time by which the corrective action must happen. A reasonable period shall be provided to correct a violation, which period shall be determined by the circumstances of the violation and the degree to which the violation constitutes a danger to public health, safety and welfare. 14-4.3 Justice Court; appearance Tickets. If the alleged violator(s) fail to correct the violation within a reasonable time of the period provided for correction of the violation the Code Enforcement Officer shall then commence a proceeding in the local Justice Court. The Code Enforcement Officer shall commence the proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets. The Code Enforcement Officer shall also prepare a supporting deposition or affidavit setting forth the details of the violation. The Code-Land Use Law Enforcement Office may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that the Justice Court issue a criminal summons for service on the alleged violator(s). The Village Attorney shall represent the Code Enforcement Officer in the Justice Court. Notwithstanding the foregoing, the Code Enforcement Officer may simultaneously or besides the remedy provided herein refer the alleged violation to the Village Attorney for an injunction and the collection of civil fines as provided for in Section 12-5 below.

12-4.4 Authorization to Issue Appearance Tickets. The Code Enforcement Officer, and any appointed deputy, are hereby authorized to issue and serve an appearance tickets with respect to violations of the Village of Schoharie Land Use Law. An appearance ticket issued under authority of this local law shall be served personally.

12-4.5 Reports to the Village Board of Trustees by the Code Enforcement Officer. The Code

Enforcement Officer shall present a monthly report on the activities of his or her office to the Village Board of Trustees. The Code Enforcement Officer shall submit an annual report to the Village Board of Trustees describing each confirmed violation and its disposition. Information that could adversely affect an ongoing investigation may be withheld from the report. 14-4.6 Out-of-Court Settlements. Out-of-court settlements are encouraged. They shall, however, be in writing and signed by both the Code Enforcement Officer and the alleged violator(s). Where a court proceeding has been commenced any settlement shall be made a stipulation and so-ordered by the Court.

## 12-5 Abatement of Violations

12-5.1 By the Village Board or Land Use Law/Code Officer: The Board of Trustees, or the Land Use Law/Code Officer, with the permission of the Board of Trustees, may commence an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation hereunder. As part of such an action, such boards or officer may seek fines and civil penalties as provided for above, and in accordance with Section 7-714 of the Village Law.

12-5.2 Private Actions to Enforce the Law: Upon the failure or refusal of the Village Board of Trustees to commence and enforce the Village of Schoharie Land Use Law for a period of ten days after written request by a resident taxpayer of the Village so to proceed, any three taxpayers of the Village residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as the Land Use Law/Code Officer or the Village Board is authorized to do.

## 12-6 Compliance with the law as Condition of Permit or Approval

If an enforcement action or proceeding is begun or pending in Justice Court, Supreme Court or because of the issuance of a notice of violation, the Planning Board shall condition any final approval or permit on resolution of the action, proceeding or notice of violation provided the action, proceeding or notice of violation concerns the land that is the subject of application for a permit or approval. The foregoing provision is intended to supersede Article 7 of the Village Law, including without limitation, sections 7-725-a, 7-725-b, 7-728 of the Village Law, in their local application.

## Chapter 13 Amendments

### 13-1 Authority

The Village Board of Trustees, may, on their own motion, on petition by any official or member of the public or on recommendation of the Planning Board, amend, supplement, modify, or repeal the provisions of this Local Law after public notice and hearing as set forth below and in accordance with State law.

### 13-2 Referral to Planning Board

Every proposed amendment or change initiated by the Village Board of Trustees, or by petition (but not initiated by the Planning Board), shall be referred to the Planning Board for its recommendation prior to public hearing.

### 13-3 Referral to Schoharie County Planning Commission

Any proposed amendment affecting real property within five hundred (500) feet of the boundary of the Village of Schoharie or the boundary of any existing or proposed County or State park or other recreational area or the right-of-way of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream drainage channel owned by the County, and for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, shall be referred to the Schoharie County Planning Commission before final action is taken pursuant to Section 239-m of the General Municipal Law of the State of New York. This is except for matters that are the subject of an agreement pursuant to Section 239-m of the General Municipal Law between the County and the Village declaring such matters of local concern rather than inter-community or countywide concern.

No action shall be taken on proposals referred to the Schoharie County Planning Commission until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed amendment, unless the County and Village, or both, agree to an extension beyond the thirty (30) day requirement for the County Planning Board's review.

### 13-4 Public Hearing and Notice

No proposed amendment shall become effective until after a public hearing thereon at which the public shall have an opportunity to be heard. The Village Board of Trustees, shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause the public notice to be given as required by the Laws of New York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice.

### 13-5 Publication of Notice in Newspaper

Notice of the time and place of the public hearing shall be published at least ten days in advance of such hearing in the official newspaper. This notice shall specify the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

### 13-6 Posting

Notice of the time and place of the public hearing shall be posted at least ten days before such hearing on the bulletin board of the Village Clerk located at the Village Hall, or on both bulletin boards. This notice should specify the general nature of the proposed amendment, in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

### 13-7 Adoption

The Village Board of Trustees may adopt amendments to this Local Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Board as noted below.



### 13-8 Local Protest

The favorable vote of three-fourths of board members shall be required for passage of any amendment which is subject to a written protest signed by twenty percent (20%) or more of the owners of land in any of the following areas:

- The land use area included in the proposed amendment.
- The land use area immediately adjacent to the area proposed to be changed and extending one hundred (100) feet there from.
- The land use area directly opposite the area proposed to be changed and extending one hundred (100) feet from the road frontage of such opposite land.

### 13-9 County Disapproval

A majority plus one vote of all Village Trustees shall be required to pass any proposal which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

## Chapter 14 Glossary

### 14-1 General Rule

14-1.1 Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel." The word "person" includes an individual person, a firm, a corporation, a partnership and any other agency of voluntary action. The word "he" shall include "she" or "they." The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

14-1.2 Where two (2) words are separated by a slash mark (/), they shall have the same meaning.

### 14-2 Definitions.

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

**ACCESSORY APARTMENT:** A dwelling unit occupying the lesser of one thousand (1,000) square feet or thirty percent (30%) of the floor space of an owner-occupied structure containing a principal use that is single-family residential or nonresidential, or a dwelling unit no larger than one thousand (1,000) square feet located in an accessory structure on an owner-occupied property.

**ACCESSORY STRUCTURE:** A structure subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the principal building or use, including accessory apartments.

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

**ACCIDENTAL SPILL:** Any intentional or unintentional action or omission resulting in an unpermitted releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of petroleum, petroleum products, septage, or toxic chemicals or substances on the watershed or into the waters within any of the surveillance zones or onto lands from which it might flow or drain into said waters.

**ADULT ENTERTAINMENT BUSINESS:** A bookstore, video store, nightclub, movie theater, retail store or other establishment which prominently features entertainment or materials with sexually explicit content. An establishment which sells such materials as an incidental part of its business or which presents such material or entertainment primarily as a form of legitimate artistic expression shall not be considered an "adult entertainment business."

**AFFORDABLE HOUSING:** Dwelling units inhabited by households whose annual income is within 80% to 120% of the Schoharie County median income, with adjustments for household size, as defined and periodically updated by the US Department of Housing and Urban Development, and the annual rental costs does not exceed 30% of said income, or, for homeowners, the annual cost of the sum of the principal, interest, taxes, and insurance (PITI) and common charges, as applicable, does not exceed 30% of said income.

**AGRICULTURAL DATA STATEMENT:** An identification of farm operations within an agricultural

district located within five hundred (500) feet of the boundary of property upon which a subdivision is proposed, as provided in Section 305-a of the Agriculture and Markets Law of the State of New York. An "Agricultural Data Statement" shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.

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

**AGRICULTURE:** The use of land and structures for the production, preservation, nonindustrial processing, storage and sale of agricultural commodities such as crops, plants, flowers, vines, trees, sod, shrubs, livestock, honey, Christmas trees, compost, poultry or dairy products, not including agricultural industry or farms primarily for the disposal of waste products or garbage.

**AGRICULTURE DISTRICT:** A district created under Section 305 of the Agriculture and Markets Law with the intent to provide for the protection and enhancement of agricultural land as a viable segment of the local economy and environmental resource of major importance.

**ALTERATION:** In regards to a structure, a change to or rearrangement of the structural parts or exterior appearance, or any expansion thereof, whether by extension of any side or by any increase in height, or the moving of such structure from one location to another.

**ALTERNATIVE TOWER STRUCTURE:** Manmade trees, silos, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA:** Any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.

**ANTIQUA SALES:** Sale of items and merchandise which are at least fifty (50) years old.

**APPLICANT:** Any person, corporation or other entity applying for a building permit, certificate of occupancy, Special Use Permit, site plan, sign permit or subdivision approval, variance or zoning amendment.

**AQUIFER:** The saturated and unsaturated subsurface geologic formations which are now or may subsequently be developed for use as a public water supply source.

**AQUIFER RECHARGE AREA:** The land area where precipitation, snow, and rain percolates directly through the ground to an aquifer and shall be delineated by the Commissioner of Health. The aquifer recharge area shall also be known as surveillance Zone II-G.

**AUTOMOBILE SERVICE SHOP:** Any building, land area, or other premises, or portion thereof, used for the servicing and repair of automobiles including but not limited to repair, rebuilding or engines,

motor vehicles, trailers, bodywork, welding, and painting; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. This does not include dispensing or sales of vehicular fuels.

**BED-AND-BREAKFAST INN:** Owner-occupied, one-family dwelling used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, containing at least three but not more than five bedrooms for such lodgers.

**BEST MANAGEMENT PRACTICES:** A management practice that is operational, vegetative or structural and designed to reduce nonpoint source pollutant loads to receiving waters. A best management practice refers to a practice or combination of practices that is determined by a designated planning agency to be the most effective, practicable means of preventing or deducing the amount of pollution generated by land use activities to a level compatible with water quality standards. Refer to materials published by the NYS Department of Environmental Conservation and the Natural Resources Conservation Service.

**BILLBOARD:** A free standing sign larger than thirty-five (35) square feet in gross area, or a wall sign covering more than ten percent of the area to which it is affixed.

**BOAT LAUNCH or RAMP:** shall mean any structure or clearing that extends to or waterward of the normal high water elevation or any structure or clearing upon which non-motorized watercraft can be launched or retrieved.

**BOAT TIE-UP:** A post provided at the waterline to secure a boat to.

**BOUNDARY LINE ADJUSTMENT:** "Boundary line adjustment" shall mean the conveyance of a portion of a lawfully existing lot from one landowner to an adjoining landowner under the following conditions: a) No additional lots are created as a result of the transfer and b) The transferor lot continues to meet or exceed the minimum standards for subdivided parcels of land set forth in the Village of Schoharie Subdivision Regulations after the transfer. Examples of boundary line adjustments include but are not limited to the following situations:

- i) Where the transfer is intended to correct a physical encroachment; or ii) Where the settlement of a dispute as to a boundary line requires the transfer of all or a portion of the property in question; or
- iii) Where a substandard or undersized lot is intended to be enlarged or improved to meet the minimum standards for buildable lots.

**BREWERY and DISTILLERY:** The processing, marketing, and selling of alcoholic beverages made from grains, grapes and other fruits including the processing, distillation, brewing and fermentation activity and the buildings and equipment which are needed to produce, store, distill, brew and/or ferment grains, grapes or other.

**BUFFER:** Vegetation, fencing, or earthen berms placed in such a manner that they make structures, objects, or parking lots not visible from a public road or any other public place throughout the year. Objects or structures may be "screened" by topography, vegetation or fencing as outlined in this law.

**BUILDABLE LAND:** That portion of a lot which is suitable for building structures and locating septic disposal facilities, for example, all land excluding wetlands and watercourses, slopes exceeding thirty percent (30%) and the one-hundred-year flood zone as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

**BUILDING:** A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or property.

**BUILDING ENVELOPE:** That portion of a lot located within the minimum prescribed front, rear and side yard setback distances and that is the most suitable for development. The building envelope includes any disturbed portions of the lot including the structure itself, driveway or parking lot, and septic leach field.

**BUILDING FOOTPRINT:** A drawing on a map, plot plan, sketch or site map depicting the exact dimensions, shape and location and area of ground covered by the outline of a structure's perimeter on a lot or parcel. The footprint shall include the foundation and all areas enclosed by exterior walls and footings and covered by a roof.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof, excluding any appurtenances. When a lot fronts on two (2) or more streets of different levels, the lower street level shall be taken as the base for measuring the height of the building.

**BUILDING, PRINCIPAL:** A building or structure in which is conducted the main or principal use of the lot on which it is located.

**CAMPSITE** – Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper for recreation, education, or vacation purposes.

**CHANGE OF USE:** When there is a change of use from one use category to another use category described in the table of uses of this law; when a use has exceeded the scope of its original permit; or when a use requires a new permit from any governmental agency. A change of ownership or tenancy shall not be considered a change of use. When a change of use occurs, a new site plan review is required and should concentrate on ensuring that signage, lighting, and where appropriate landscaping and sidewalk standards are met.

**CHARITABLE ORGANIZATION:** A not-for-profit corporation or association organized for charitable purposes.

**CLEARCUTTING:** A regeneration or harvest method that removes essentially all trees in a forested area. Clearcutting does not include the removal of trees, shrubs, and undergrowth for agricultural purposes or for preparation of a parcel for development.

**COMMERCIAL USE:** Any use including, but not limited to retail sales, office, service (for example insurance sales, beauty parlors), professional (for example, medical and dental offices), restaurants, wholesale operations, warehousing, manufacturing, or multi-family dwelling units.

**COMMON DRIVEWAY OR ROADWAY:** A driveway or road serving no more than six (6) lots, owned in common or created by reciprocal easements.

**COMMUNICATION TOWER:** A structure used for transmitting and receiving radio, microwave or similar electromagnetic signals, not including antennas and satellite dishes designed for ordinary home or farm use.

**COMMUTER PARKING LOT:** An off-street, open area that provides temporary storage and parking for motor vehicles for people commuting.

**COMPLETE APPLICATION:** An application for a Special Use Permit, site plan or subdivision approval, zoning amendment or variance found by the reviewing board to satisfy all information requirements of this law and the New York State Environmental Quality Review Act, for which either a negative declaration has been issued or a Draft Environmental Impact Statement has been accepted pursuant to Section 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

**COMPREHENSIVE PLAN:** The Comprehensive Plan adopted by the Village Board of Schoharie for the future preservation and development of the Village of Schoharie including any part of such plan separately adopted and any amendment to such plan.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO):** See definition for Intensive Agricultural Operation.

**CONFORMITY/CONFORMING:** Complying with the use, density, dimensional and other standards of this law, or permitted to deviate therefrom.

**CONSERVATION EASEMENT:** A perpetual restriction on the use of land, stipulating that the described land will remain in a certain state and precluding future or additional development, created in accordance with the provisions of the Environmental Conservation Law of the State of New York or § 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land and natural, cultural, historic and scenic resources.

**CONSTRUCTION TRAILER:** A mobile unit used for nonresidential purposes associated with on-site construction.

**CONVENTIONAL SUBDIVISION:** Where land is divided, according to Chapter 10 of this law and recorded in the Schoharie County Clerk's Office, and where all the land is divided into house lots and streets, with the only open space typically being un-developable wetlands, steep slopes, floodplains and stormwater management areas. Conventional subdivisions comply with the minimum lot size requirements for conventional subdivisions without setting aside land as permanently protected open space.

**CORNER LOT:** See "lot, corner."

**CUTOFF FIXTURES:** Light fixtures where no more than ten percent of the light component is emitted upward.

**DENSITY:** The concentration of dwelling units in any given area and described as the number of dwelling units per acre of land, for example, 1 dwelling unit per 2.3 acres. It is the number of dwelling units in relation to the total land area proposed to be used for residential purposes.

**DENSITY BONUSES:** When additional density is allowed in exchange for when a landowner fulfills a community need such as open space, affordable housing or senior citizen housing. Density bonuses are incentives to allow a developer of multiple dwellings to build more units than would otherwise be allowed by this law.

**DESIGN STANDARDS:** A set of requirements and/or criteria to be met by a developer to meet various community goals as stated in the Village of Schoharie Comprehensive Plan. Design Standards include, but are not limited to, requirements for building design, height, parking, landscaping, lighting, signage, and driveways.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as mining, dredging, filling, paving, excavations or drilling operations.

**DIGITAL DISPLAY SIGN:** A sign message that is made up of internally illuminated components that display on an electronic image, which may or may not include text and can change the message periodically. Digital displays may include but are not limited to television screens, holographic displays, programmable ink, LCD, LED or plasma displays.

**DIRECTIONAL SIGNS:** A sign no larger than four (4) square feet placed as directional markers.

**DISTRIBUTION CENTER:** An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials by motor vehicle.

**DRIVEWAY:** A private way providing vehicular access from a public or private road to a residence or to a commercial or noncommercial establishment.

**DWELLING:** A building designed or used exclusively as living quarters for one (1) or more families.

**DWELLING, MULTIFAMILY:** A dwelling containing separate living units for three (3) or more families.

**DWELLING, SINGLE-FAMILY:** A detached building designed for the use of one (1) household, including one (1) or more persons living as a family. Mobile homes have separate regulations and are not considered as a single-family dwelling.

**DWELLING, TWO-FAMILY:** A detached building containing two (2) dwelling units.

**DWELLING UNIT (DU):** A building or portion thereof providing complete housekeeping facilities for one (1) family.

**EDUCATIONAL FACILITY:** A building or part thereof which is designed, constructed, or used for education, training, or instruction in any branch of knowledge or skill and includes, but is not limited to elementary, parochial, private, secondary or vocational schools.

**EMERGENCY SERVICE FACILITY:** A building or structure, owned or maintained by the local fire department or ambulance squad and used to house fire trucks, ambulances, and other emergency vehicles as well as office space and other rooms needed to support provision of emergency services.

**EROSION:** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**FAMILY:** One (1) person, or a group of two (2) or more persons living and cooking together in the same dwelling unit as a single housekeeping entity. A roomer, boarder, lodger or occupant of supervised group quarters shall not be considered a member of a "family."

**FARM OPERATION:** Land used in agricultural production, farm buildings, equipment and farm residential buildings.

**FARM STAND:** Any retail operation concentrating on sales of agricultural products.

**FERTILIZERS (ARTIFICIAL):** Any commercially produced mixture generally containing phosphorous,

nitrogen, and potassium which is applied to the ground.

**FLEXIBLE SETBACKS:** Setback distances that are allowed to vary in width so that buildings can be placed in the most advantageous location on a lot to meet open space, aesthetic, environmental, safety or other goals as stated in the Village of Schoharie Comprehensive Plan.

**FLEXIBLE COMMERCIAL CONSERVATION SUBDIVISION:** Commercial developments where a specified percentage of buildable land area is designated as undivided, permanent open space. Such subdivisions are density-neutral (where the overall density of buildings allowed is the same as would be permitted in a conventional layout). Flexible Conservation Subdivisions allow flexible setbacks and smaller lots.

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**FLOODPLAIN:** Areas identified on the Flood Insurance Rate Map as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood. SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. Moderate flood hazard areas, labeled Zone B or Zone X (shaded) are also shown on the FIRM, and are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood. The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood, are labeled Zone C or Zone X (unshaded).

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved 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.

**FLOOR SPACE:** The sum of the areas of habitable or commercially usable space on all floors of a structure, including the interior floor area of all rooms (including bathrooms and kitchens), closets, pantries, hallways that are part of a dwelling unit or inside a commercial building, excluding cellars or unfinished basements.

**FOOTCANDLE:** Unit of light quantity or density when the foot (12") is the unit of measure. One footcandle equals one lumen per square foot of area.

**FREESTANDING SIGN (Pole and non-pole):** A self-supporting sign not attached to any building wall or fence, but in a fixed location. This does not include portable signs. Free standing signs must be located on the property of the business for which it is advertising. Pole signs have ground clearance of four (4) or more feet. Non-pole freestanding signs have zero (0) ground clearance.

**FRONT:** The side of a building or structure parallel to and closest to a road or street. On a corner lot, both sides of a building facing the street shall be considered the "front."

**GASOLINE STATION:** An area of land including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and



which may or may not include facilities for lubricating, washing, but which does not include auto body work, welding, or painting, unless authorized.

**GLARE:** Spillover of artificial light beyond the area intended for illumination in a manner which either impairs vision or beams light onto adjoining properties or toward the sky.

**GRADING:** Any excavation, alteration of land contours, grubbing, filling or stockpiling of earth materials.

**GOOD CONDITION:** A structure is considered in good condition if it is structurally sound, secure from the elements and from vandalism, and the exterior facade including windows, doors, steps, stoops or porches is in sound condition.

**GROUND WATER:** Any water beneath the land surface that is under atmospheric or artesian pressure and that enters wells and springs serving as sources of water supply.

**HAZARDOUS MATERIAL:** Any substance listed in or exhibiting characteristics identified in either Parts 371 or 597 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York This includes material that is a present or potential hazard to human health or the environment when improperly stored, transported, discarded or managed, including hydrocarbon products such as gasoline, oil and diesel fuel.

**HEALTH CARE FACILITY:** a facility principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

**HEIGHT:** When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if the highest point is on an antenna.

**HERBICIDE:** Any substance used to destroy or inhibit plant growth.

**HOME-BASED BUSINESS:** An occupation or business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure. "Home-based Business" includes, but is not limited to, the following: day care, art studio, dressmaker, barbershops, beauty parlors, carpenter, electrician, plumber, professional office of a physician, dentist, lawyer, engineer, architect or accountant within a dwelling occupied by the same and teaching. "Home-based Business" does not include kennels or restaurants.

**MAJOR HOME BASED BUSINESS:** A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than four persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. A sign is likely to be present. Other exterior evidence of this secondary use includes customers, clients, and other business associates entering the premises daily; storage of business products, waste, equipment, or vehicles is required regardless of the number of employees; and delivery truck visits or other traffic beyond that expected of a typical residence may occur.

**MINOR HOME BASED BUSINESS:** A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-

residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than two persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small sign or lawn plaque. Few customers, clients, or other business associates enter the premises daily. The business does not store business products, equipment or vehicles outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

HOTEL: See "lodging facility."

HUMAN EXCRETA: Human feces and urine.

IMPERMEABLE SURFACE: Any material covering the ground through which water does not readily penetrate, including but not limited to roofed structures and concrete, oil and stone, tar or asphalt pavement.

INSECTICIDE: Any chemical or substance applied to soil or vegetation to control insects.

INTENSIVE AGRICULTURAL OPERATION: A Concentrated Animal Feeding Operation is an intensive animal feeding operation that also has more than 1,000 animal units [defined in 40 CFR 122, Appendix B]; between 301 and 1,000 animal units and that may or does discharge (to a surface water of the United States) by one of the methods covered by regulations at 40 CFR 122, Appendix B(b); or been designated a CAFO by the United States Environmental Protection Agency (USEPA) on a case-by-case basis after inspection (by USEPA) [40 CFR 122.23(c)].

INTERNAL AND EXTERNAL ILLUMINATION: Any sign lighted by electrical bulbs, fluorescent lights, or neon tubes. Neon tubes used as abstract, graphic, decorative or architectural elements shall be an illuminated sign. Internally illuminated signs are those that are lighted from within the structure itself. Externally illuminated signs are those that have artificial lights projecting upon the face of the sign.

JUNK: a) Any worn-out, cast-off, discarded, or neglected article or b) material that has been collected or stored for salvage or conversion to another use. Junk does not include any article stored for restoration or display as part of a bona fide hobby including antique automobiles and antique farm machinery.

JUNK CAR: Any motor vehicle, whether it be an automobile, bus, van or truck originally intended for travel on the public highways, which is abandoned, stored, left or placed by its owner or any other person on public or private premises, which vehicle is neither intended nor in any condition for legal use upon the public highway and is not currently registered by the State of New York or any other State for operation on public highways; or is being held or used for the purposes of resale of the vehicle or used parts therefrom; or is in such condition as to cost more to repair and place in operating condition than its reasonable market value prior to such repair. The foregoing definition shall not include an antique vehicle stored for restoration or display or both as part of a hobby.

JUNKYARD: The use of two hundred (200) square feet or more of area or fifty (50) lineal feet or more on any lot outside a building for the storage or collection of junk or junk cars.

KENNEL: Any establishment including cages, dog runs, and structures wherein more than three (3) dogs which are over six (6) months old are kept for sale, boarding, care or breeding, for which a fee is charged.

**LAND APPLICATION OF WASTEWATER:** The distribution of municipal, industrial, agricultural or residential wastewater by spray irrigation, injection or direct flow, over the land surface with or without underdrain system and point discharges.

**LANDSCAPE SURFACE RATIO:** The area of land devoted to pervious landscaping divided by the area of the site or lot. It is a ratio used to regulate intensity of development.

**LAUNCH OR DOCK:** An area along the Schoharie or Fox Creek used for access to the water by small boating crafts such as canoes and kayaks.

**LIGHT INDUSTRY:** Manufacture, assembly, treatment or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare or vibration beyond the property boundaries. This does not include, among other things, commercial incineration of waste.

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

**LINEAR DISTANCE:** The shortest horizontal distance from the nearest point of the structure or object to the extension of the centerline of the wells, the nearest edge of any spring, the edge margin and steep bank forming the high-water line of a water course, and the nearest edge of a sinkhole, crevice, fissure, cave, exposed bedrock or similar exposure tributary to the aquifer.

**LOADING DOCK:** An off-street space or berth with a raised platform used for loading or unloading cargo, products, or materials from vehicles.

**LODGING FACILITY:** Any hotel, motel, inn or other establishment other than a bed-and-breakfast, providing sleeping accommodations for transient guests, with or without a dining room or restaurant.

**LOT, CORNER:** A lot at the junction of and abutting on two (2) or more intersecting roads.

**LOT LINES:** The property lines that bound a lot as defined herein.

**LOT OF RECORD:** Any lot which has been established as such by plat, survey record or deed prior to the date of this law and duly filed in the office of the Schoharie County Clerk.

**LOT/PARCEL:** An area of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established by the filing of an approved subdivision plat and recording of a deed prior to the adoption of this law.

**LUMINAIRE:** A complete lighting system including a lamp or lamps and a fixture.

**MAJOR EXTERIOR ALTERATION:** Expansion of an existing structure by more than 10% through an addition to the building. Replacement of windows, roof, siding, porches, or painting and normal maintenance activities shall not be considered major exterior alterations.

**MAJOR PROJECT:** A proposed use that requires a Special Use Permit, site plan approval or both and that exceeds any of the thresholds for a minor project.

**MANAGEMENT -** shall include associations of property owners when such are responsible for maintenance and operation of common facilities.

**MANUFACTURED HOME:** These are structures built in the factory and transported to the site. Manufactured homes include panelized homes (flat units consisting of panels of wall with windows, doors, wiring and outside siding), modular homes (multi-section units to be placed on a permanent foundation and are not transportable after installation), and pre-cut homes (factory cut to design specifications and include kit, log and dome homes). All manufactured homes are transported to the site and assembled. They differ from mobile homes in that they are not transportable after installation and do not have a permanent axle.

**MANURE:** Animal feces and urine.

**MINE:** Any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulage ways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine.

**MINERAL:** Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this title, peat and topsoil shall be considered minerals.

**MINING:** The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

**MINOR PROJECT:** A use or combination of uses on a lot or a series of adjoining lots that requires either site plan review, a Special Use Permit, or both and that does not exceed any of the following limits:

- A. Construction of two (2) two-family units or a bed and breakfast or lodging facility with up to five (5) bedrooms.
- B. Construction of facilities or structures for a nonresidential use covering no more than three thousand (3,000) square feet of building footprint.
- C. Alteration of existing structures or expansion of such structures by no more than one thousand (1,000) square feet.
- D. Conversion of existing structures totaling three thousand (3,000) square feet or less to another use.

**MIXED USE:** Any combination of residential, commercial or industrial uses in the same land use area.

**MOBILE HOME:** A transportable, single family dwelling intended for permanent occupancy contained in one or more units designed to be joined into one integral unit capable of again being separated for towing with a permanent chassis, and constructed so that it may be used with or without a permanent foundation and manufactured and stamped with a DHCR stamp. Each mobile home shall be one dwelling unit for purposes of density calculations.

Mobile Home, single-wide: A mobile home consisting of one section.

Mobile Home, double-wide: A mobile home consisting of two sections.

**MOBILE HOME COMMUNITY:** Any parcel which is improved for the placement of four or more mobile homes occupied or intended to be occupied for dwelling purposes.

**MOTEL:** See "lodging facility".

**MULTIFAMILY DWELLING:** See "dwelling, multifamily."

**MULTIPLE USE:** Any combination of residential, commercial or industrial uses on the same lot or in the same building.

**NEW CONSTRUCTION:** Construction of a new single family, two-family, or other residential structure, or construction of a new commercial structure located in the Village of Schoharie Historic Overlay District. Within the overlay, construction of new accessory structures shall not be considered new construction. Reconstruction of a residential or commercial structure on the same building footprint as a residential or commercial structure that has been destroyed by fire or other natural means shall not be considered new construction.

**NONCONFORMING LOT:** A lot of record that does not comply with the area, frontage, shape or locational provisions of this law for the land use area in which it is located but was not in violation of the applicable requirements when it was created and that was lawfully created.

**NONCONFORMING STRUCTURE:** A structure that does not satisfy the dimensional requirements of this law for the area in which it is located, but which was not in violation of applicable requirements when constructed and lawfully erected.

**NONCONFORMING USE:** Any use lawfully existing prior to and at the time of the adoption or amendment of this chapter or any preceding zoning law or ordinance, which use is not permitted by or does not conform to the permitted use provisions for the area in which it is located. A preexisting lawful use which is allowed only by Special Use Permit under this law shall be considered a "nonconforming use" until a Special Use Permit is granted for it.

**NUISANCE:** A use of property that produces a tangible and appreciable injury to neighboring property and as further defined in the common law of the State of New York.

**NURSING HOME:** A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**OFFICE:** The building or room(s) used for a for-profit or non-profit business or organization to conduct their business or operation.

**OFF-PREMISE SIGN:** Any sign which is not on the premises of the business, including a billboard.

**OPEN SPACE:** An area of land not developed with structures and used for recreation, agriculture, lawn or forestry or left in its natural state.

**OUTDOOR WOOD FURNACE:** A freestanding combustion unit located outside the home or structure to be heated, consisting of a firebox surrounded by a water reservoir for heating water that is then

circulated throughout the structure.

**OUTDOOR LIGHT FIXTURE:** outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to search, spot and flood lights for buildings and structures, recreational areas, parking lots, landscape lighting, billboards and signs, street lighting, product display lighting, building overhangs and open canopies.

**OUTDOOR STORAGE:** Land used for the keeping of goods, wares, equipment or supplies outside of a structure.

**OVERLAY LAND USE AREA:** A zone or district created for the purpose of conserving natural or cultural resources or promoting certain types of development. Overlay Land Use Areas are imposed over existing land use areas and contain provisions that are applicable in addition to those contained in the land use law.

**PARKING SPACE:** The net area needed for parking one (1) automobile, usually equal to one hundred eighty (180) square feet with dimensions of nine by twenty (9 by 20) feet.

**PERFORMANCE STANDARD:** A required criteria or standard that a land use activity must conform to to meet the goals and expectations in relation to protection of the health, safety, welfare and quality of life of the community.

**PERFORMANCE ZONING:** A type of zoning that allows any one of a variety of considerations to govern land use such as land use intensity and site and design variables. It differs from conventional zoning in that it places emphasis on regulating the impact of a use rather than strictly regulating specific uses. Performance zoning applies a variety of performance standards designed to meet specific objectives of each land use area.

**PERMITTED USE:** A use that is allowed without land use or special use permit required. However, a building permit may be required.

**PESTICIDE:** Any substance used to destroy or inhibit pests such as rodents and insects.

**PLAT:** A map or plan submitted to the Planning Board as part of an application for subdivision approval

**PLOT PLAN:** A map or plan showing the boundaries of a parcel and all structures and important physical features on it, drawn to scale with accurate dimensions and submitted with an application for a minor project Special Use Permit or a variance.

**POINT SOURCE DISCHARGE:** Any discharge of pollutants resulting from facilities, systems and activities which operate under a permit issued by the appropriate state or local agency.

**POLITICAL SIGN:** A sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office.

**POLLUTION:** Any dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial and municipal waste, manure, animal waste and agricultural waste.

**PORTABLE OUTDOOR STORAGE UNIT:** A unit greater in dimension than three feet in length by three feet in width by three feet in height rented or owned or for use by the property owner for storage of personal, business, or commercial items or used for the packing or storage of items for permanently moving to or from the residence or for temporarily storing items during a renovation to the main residences. PODS include, but are not limited to, sea boxes, bulk storage containers, portable on demand storage containers, store-to-door mobile transportation storage containers, roll-off containers or other such similar containers

**PORTABLE SIGN:** A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

**POTABLE WATER SUPPLY:** Water supply suitable for human consumption.

**PREMISES:** A lot, together with all the structures and uses thereon.

**PRINCIPAL BUILDING:** See "building, principal."

**PRIME SOILS:** Soils defined by the United States Natural Resources Conservation Service and New York State as being particularly suited and best used for agricultural purposes.

**PRIVATE ROAD:** A privately-owned road held in common ownership or easement by a homeowners association, or a rear lot owned road with front lot right-of-way.

**PROJECTING SIGN:** A sign which is affixed to a building, tree, or other structure and which extends more than 6 inches beyond the surface to which it is affixed.

**PUBLIC ACCESS** –Privately-owned public space with a trail or pathway provided, constructed or maintained by a property owner/developer for public use in exchange for additional campsite density within a campground.

**PUBLIC BUILDING AND INSTITUTION:** Any building used exclusively for public purposes by any department or branch of government; buildings of an institutional nature and serving a public need such as hospitals, schools, libraries, museums, post office, and police and fire stations.

**PUBLIC NUISANCE:** An unreasonable interference with a right common to the general public and as further defined in the common law of the State of New York.

**PUBLIC UTILITIES:** An installation used by a public utility to supply electric, gas, water, cable television, telephone or other utility service. Included are such facilities as electric unit substations, high-voltage transmission lines, pump stations, water towers and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not "utility facilities."

**REAR LOT:** See "lot, rear."

**RECREATIONAL BUSINESS:** A business which, for compensation, offers recreational services including but not limited to marinas, boatyards, ski resorts, public stables, golf courses and driving ranges, miniature golf, movie theaters and other places of public or private entertainment.

**RECREATIONAL VEHICLE** - A portable vehicle designed as a temporary dwelling for travel, recreational and vacation use.

**RECREATIONAL VEHICLE CAMPGROUND:** A lot or lots used solely for temporary and seasonal use for recreational vehicles, campers, tents and truck campers. A recreational vehicle campground may have hook-ups for water and sewer and other amenities for campground guest including, but not limited to swimming pool, tennis courts and shower facilities.

**REFUSE:** All putrescible and nonputrescible solid wastes including garbage, manure, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal and solid commercial and industrial wastes.

**RELIGIOUS INSTITUTION:** A church, synagogue or other place of religious worship, as well as a monastery or other place of religious retreat.

**RESIDENTIAL UNIT:** See "dwelling unit."

**RESIDENTIAL USE:** A use of land and structures in which people live and sleep overnight on a regular basis.

**RESTAURANT:** An establishment where food and drink are prepared, served and consumed, mostly within a principal building.

**RETAIL BUSINESS:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, restaurant, shoe store, stationery store and variety store.

**REVIEWING BOARD:** The Planning Board or the Zoning Board of Appeals

**RIPARIAN AREA:** a land area found along streams, rivers, and lakes where a complex assemblage of plants and other organisms live in an environment adjacent to water. Without definitive boundaries, a riparian area may include stream banks, floodplain, and wetlands, forming a transitional zone between upland and aquatic habitat. Mainly linear in shape and extent, they are characterized by laterally flowing water that rises and falls frequently. These areas are habitats or ecosystems that are dependent on the existence of perennial, intermittent, or ephemeral surface or subsurface water drainage.

**ROAD FRONTAGE:** The distance along a street line measured at the front of a lot.

**ROAD/STREET:** A public or private way for pedestrian and vehicular traffic, including avenue, lane, highway or other way, excluding a driveway or common driveway.

**SANDWICH BOARD SIGN:** A moveable, two sided, sign made only of wood and standing on legs not over four feet in total height and designed to be placed on a sidewalk or driveway.

**SATELLITE PARKING LOT:** A parking facility used primarily for commuters and that is not accessory to or used for commercial buildings.

**SEPTAGE:** Residue removed from onsite sewage or wastewater disposal systems.

**SEQRA:** The acronym for the State Environmental Quality Review Act.

**SERVICE BUSINESS:** A business or nonprofit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing and landscape contracting, arts instruction or studio, banking, auto repair, business and educational services, catering, health club, house cleaning services, locksmith, photocopying, repair and restoration services, tailoring,



typing and word processing. "Service business" does not include retail business, restaurants, warehouses or other uses separately listed in the Use Tables of this law.

**SERVICE ROAD:** A local road running generally parallel to a through road, providing vehicular access points for individual lots, constructed to reduce the number of access points on the through road.

**SETBACK:** The distance in feet from a property line to a structure on a lot.

**SEWAGE:** Any liquid or solid waste matter from a domestic, commercial, private, or industrial establishment which is normally carried off in sewers or waste pipes.

**SEWAGE SYSTEM CLEANER:** Any solid or liquid materials intended or used primarily for the purpose of cleaning, treating, or unclogging any part of a sewage system or any material intended or used primarily for the purpose of continuously or automatically deodorizing or disinfecting any part of a sewage system including but not limited to solid cakes or devices placed in plumbing fixtures.

**SHIELDED LIGHT FIXTURE:** a light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees for street lighting or 80 degrees for all other lighting, through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

**SIGN:** Any billboard, signboard, inscription, pennant or other material, structure, exterior painting or device composed of lettered or pictorial material that is intended for outdoor viewing by the general public (including inside a window) and used as an advertisement, announcement or direction.

**SIGN AREA:** That portion of a sign, not including the supporting structures that include the lettering, designs, logos, or other graphics on the sign face. Where a sign has two sides, one side shall count to calculate the sign area.

**SIGN BONUS:** An increase in size is given over allowable dimensions in exchange for desired and improved sign design as outlined in Chapter 5-2.2G of this law.

**SINGLE-FAMILY DWELLING:** See "dwelling, single family."

**SLUDGE:** The solid residue resulting from municipal or industrial process or wastewater or water treatment which also produces a liquid stream of effluent.

**SOIL MINING:** Use of a parcel of land or contiguous parcels of land, or portions thereof, for the purpose of extracting and selling stone, sand, gravel, or both, not including the process of preparing land for construction of a structure for which a building permit has been issued.

**SMALL SCALE AGRICULTURAL OPERATION:** Any agricultural operation that is not an intensive agricultural operation, not a designated confined animal feeding operation (CAFO), or is an operation that utilizes less than 100 acres of land.

**SOLAR FACILITY, PRIVATE USE:** Any solar energy system that: (a) Is an accessory use or structure, designed and intended to generate energy primarily for a principal use located on site, or (b) Produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings beyond the lot.

**SOLAR FACILITY, UTILITY SCALE:** An energy generation facility or area of land principally used to

convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy solely into a utility grid for sale to the general public.

**SPRAWL:** A form of urban and suburban development that contains most of the following elements: 1. Low residential density, 2. Unlimited outward extension of new development, 3. Spatial segregation of different types of land uses through zoning regulations, 4. Leapfrog development, 5. no centralized ownership of land or planning of development, 6. Dominance of transportation by private automotive vehicles, 7. Widespread strip commercial development, 8. Great fiscal disparities among localities, 9. Segregation of types of land uses in different zones.

**STRIP COMMERCIAL DEVELOPMENT:** The layout of a commercial use or uses in separated or common-wall structures along a state highway, with more than one (1) row of parking located between the highway and the commercial building(s), where parking is visible from the road. The provision of gasoline pumps or other drive-up facilities in front of a building shall be equivalent to one (1) row of parking. "Strip commercial development" is contrasted with village center development, which is characterized by two-story or taller buildings set close together and close to the street (forming a street wall that encloses the street), with a pedestrian orientation (including sidewalks) and with all off-street parking located behind or to the side of buildings.

**STRUCTURE:** A static construction of building materials affixed to the ground, such as a building, dam, display stand, gasoline pump, installed mobile home or trailer, reviewing stand, shed, sign, stadium, storage bin or wall.

**SUBDIVISION:** The division of one parcel of real property into two or more lots or parcel of real property.

**SUBDIVISION MAJOR:** Any division of real property into four or more lots within a period of two years from the date of approval of the first subdivision. For example, if a single parcel of land is divided into three lots and another subdivision is proposed within two years from the date of approval of the first subdivision the subsequent proposed subdivision shall be treated as a major subdivision. For lot counting purposes, subdivisions approvals occurring prior to the effective date of the Village of Schoharie Land Use Law shall not count toward the number of lots required for classification as a major subdivision.

**SUBDIVISION, MINOR:** Any division of real property that is not a major subdivision.

**SUBSTANTIALLY COMMENCED:** In the context of subdivisions: For a lawfully created subdivision, more than 50% of the lots shown on a subdivision plat have been conveyed and the required subdivision infrastructure (e.g., roads and drainage system) have been constructed by the owner. In the context of site plan review and special use permits: The owner has lawfully begun construction pursuant to a validly issued building permit and installed foundations and all site plan infrastructure (e.g. roads, parking areas, drainage and septic systems).

**TEMPORARY SIGN:** A sign intended to be used for a period of no more than 30 days.

**TOXIC CHEMICAL:** Any organic or inorganic substance including but not limited to petroleum derivatives, any metallic elements including the transition series and any hazardous wastes which pose a substantial present or potential threat of producing injury or disease upon exposure, ingestion, inhalation, or assimilation by a living organism.

**TOWER:** Any structure designed and constructed primarily for receiving or transmitting electronic

signals, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

**TRADEMARK ARCHITECTURE:** Architecture and architectural features such as building design, scale, rooflines, colors, and windows that are associated, through trademarks, and corporate designs, with specific commercial enterprises.

**Transient Campground** - a transient outdoor recreational activity on a parcel of land in which are located two or more tents, shelters, recreational vehicles, or other accommodations of a design or character suitable for seasonal or temporary living purposes, including a recreational vehicle campground, but not including a manufactured home park, boarding house, hotel or motel, bungalow colony, or permanent storage and use of any such accommodations. Tents, trailers, cabins, lean-to's, recreational vehicles or other similar structures used for temporarily housing workers shall not be considered a camping activity and are not addressed in this law.

**TRANSIENT RECREATIONAL OPEN SPACE USE:** A use designed and equipped principally for the conduct of sports and leisure time activities conducted outside. Open space activities include but is not limited to ball fields, tennis and racquet courts, swimming, bike trails, hiking, playing fields, batting cages, driving ranges, and similar outdoor activities.

**TRUCK TERMINAL:** Any location where freight originates, terminates or is handled in the transportation process or where carriers maintain operating facilities, excluding the premises of shippers or receivers of freight.

**TWO-FAMILY DWELLING:** See "dwelling, two family."

**USE:** The purpose for which any premises may be arranged, designed, intended, maintained or occupied, or any occupation, activity or operation conducted or intended to be conducted on a premises.

**USE, ACCESSORY:** A use which is customarily incidental to and subordinate to the principal use of a lot or structure, located on the same lot as the principal use or structure.

**VARIANCE, AREA:** The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE:** The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of use shall be deemed to require a "use variance" if such increase is not allowed by right or by Special Use Permit.

**VEGETATED BUFFER:** 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 natural features or adjacent properties. Natural vegetative covers existing within the buffer area shall be preserved as part of that buffer to the maximum extent practical. Along the Creek, a vegetated buffer is designed to conserve the areas immediately adjacent to the stream extending along both sides of a water course and any adjacent wetlands, floodplains or slopes.

**VISIBLE/VISIBILITY:** Able to be seen by a person with normal vision on a clear day when there is no foliage on deciduous trees.

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**WALL SIGN:** Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six inches from the surface of that building.

**WAREHOUSE:** A structure or structures in which materials, goods or equipment are stored.

**WATER SUPPLY:** Any public water supply.

**WATERCOURSE:** Any stream, pond, lake, drainage channel or other area of land that is normally or seasonally filled with water.

**WATERSHED:** That land (and water surface area) which contributes water to the lake and watercourse. The map of the watershed boundary should be a guide, but final determination of the boundary location is best made in the field.

**WETLAND:** Shall mean lands or waters of the State meeting the definition set forth in Section 664.2(f) of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR 664.2[f]) or any wetland meeting the United States Environmental Protection Agency and United States Army Corp. of Engineers definition of wetlands as follows: "Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." In the Village of Schoharie, wetlands mapped by the New York State Department of Environmental Conservation are set forth on official maps available at the Village clerk's office and from the regional office of the New York State Department of Environmental Conservation.

**YARD:** An open space on the same lot with a structure.

**YARD, FRONT:** An open space extending across the full width of the lot between the front building line and the street line.

**YARD, REAR:** An open space extending across the full width of the lot between the rear lot line and the rear of the principal building nearest the rear lot line.

**YARD, REQUIRED:** That portion of any yard required to satisfy minimum yard setbacks. No part of such yard can be included as part of a yard required for structures on another lot.

**YARD, SIDE:** An open space on the same lot with a principal building between the principal building and side line of the lot and extending from the front yard to the rear yard.